

APPROVED
7-2012

Rockville, Maryland
February 14, 2012

The Board of Education of Montgomery County held a business meeting at the Carver Educational Services Center, Rockville, Maryland, on February 14, 2012, beginning at 9:01 a.m.

Present: Ms. Shirley Brandman, President
in the Chair
Mr. Christopher Barclay
Dr. Judy Docca
Mr. Michael Durso
Mr. Philip Kauffman
Mrs. Patricia O'Neill
Dr. Joshua Starr, Secretary/Treasurer

Absent: Ms. Laura Berthiaume
Mr. Alan Xie

or () indicates student vote does not count. Four votes needed for adoption.

With a quorum present, the Board of Education met in open session at 9:01 a.m.

RESOLUTION NO. 32-12 Re: **RESOLUTION FOR CLOSED SESSION**

On recommendation of the superintendent and on motion of Mr. Kauffman seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:

WHEREAS, The Board of Education of Montgomery County is authorized by the *Education Article* and *State Government Article* of the *Annotated Code of Maryland* to conduct certain meetings or portions of its meetings in closed sessions; now therefore be it

Resolved, That the Board of Education of Montgomery County conduct a closed session on February 14, 2012, in Room 120 of the Carver Education Services Center, Rockville, Maryland, from 9:00 to approximately 10:00 a.m. and approximately 12:30 to approximately 2:00 p.m.; and be it further

Resolved, That the superintendent of schools brief the Board on the Monthly Human Resources and Development Report and Appointment, with a subsequent vote in open session, which is an administrative function outside the purview of the *Open Meetings Act* and, to the extent any individual employee is discussed, as permitted under Section 10-508(a)(1) of the *State Government Article*; and be it further

Resolved, That the superintendent of schools will provide the Quarterly Sexual Harassment Report to the Board which is an administrative function and outside the purview of the *Open Meetings Act*; and be it further

Resolved, That the Board receive a briefing by staff and discuss ongoing collective bargaining negotiations and matters that relate to the negotiations, as permitted under Section 10-508(a)(9) of the *State Government Article*; and be it further

Resolved, That the Board receive legal advice as the Board adjudicates appeals, which is a quasi-judicial function outside the purview of the *Open Meetings Act* and as permitted under Section 10-508(a)(7) of the *State Government Article*; and be it further

Resolved, That the meeting continue in closed session until the completion of business.

Re: **OPEN SESSION**

The Board of Education met in closed session from 9:03 to 9:30 a.m. After a break, the Board of Education reconvened in open session at 9:58 a.m.

To view specific sections or the entire meeting, please watch at
<http://www.montgomeryschoolsmd.org/boe/meetings/archive/2012/2012-0214.shtm>

Re: **PLEDGE OF ALLEGIANCE**

“I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.”

RESOLUTION NO. 33-12 Re: **AMENDMENT OF THE AGENDA**

On motion of Mrs. O’Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education amend its agenda for February 14, 2012, by moving New Business to after Board/Superintendent Comments.

RESOLUTION NO. 34-12 Re: **APPROVAL OF THE AGENDA**

On recommendation of the superintendent and on motion of Mrs. O’Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education approve its amended agenda for February 14, 2012.

Re: **PUBLIC COMMENTS**

The following people made comments before the Board of Education:

<u>Person</u>	<u>Topic</u>
1. Angela Edwards	William H. Farquhar Middle School
2. George Vlasits	State Regulation on Gifted and Talented Education
3. John Smith	Task Force on Mentoring

Ms. Brandman asked staff to provide an analysis and information regarding possible impact of the proposed COMAR Regulation: Chapter 13A.04.07 Gifted and Talented.

RESOLUTION NO. 35-12 Re: **RECOMMENDED POSITIONS ON
EDUCATION LEGISLATION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education supports ***SB0329/HB567, Education – Parent-Teacher-Meeting – Unpaid Leave***, which would provide parents the opportunity to engage with school staff. Parent-teacher meetings are an excellent chance for parents to get to know teachers, find out how their children are doing in school, learn about the expectations, and review ideas to use at home to support learning. Many parents often cannot attend parent-teacher meetings due to their work schedules. Face-to-face parent-teacher meetings are a critical ingredient to building relationships and a true home-school partnership that supports student learning and academic achievement. Helping parents get involved in their children's education is good for students, good for schools, good for families, good for business, and good for the community.

RESOLUTION NO. 36-12 Re: **RECOMMENDED POSITIONS ON
EDUCATION LEGISLATION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Dr. Docca, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education opposes ***SB0178/HB617, Education – Informal Kinship Care – Documentation supporting Affidavit – Repeal*** which would have the potential to exponentially increase the number of students who attend schools on informal kinship care status and shifts the burden to school staff to determine the legitimacy of the request and collection of penalties should the request be fraudulent. Additional costs may be incurred with investigations of cases versus the requirement to provide appropriate documentation in advance.

RESOLUTION NO. 37-12 Re: **RECOMMENDED POSITIONS ON
EDUCATION LEGISLATION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education Strongly supports **SB851 - Education - Maintenance of Effort - Waiver of Penalty** for the purpose of waiving the penalty for not meeting the maintenance of effort requirement in a certain year; providing for the application of this Act; and generally relating to the funding of primary and secondary education.

Re: **BOARD/SUPERINTENDENT COMMENTS**

Mr. Durso stated that the Student Town Hall was a great success, and it was hosted by Dr. Starr and Mr. Xie.

Mrs. O'Neill commented on the upcoming celebration of the Asian New Year and the scholarships awarded by the Asian Educators Association at their annual banquet.

Dr. Docca noted that she had attended the book swap at Roberto Clemente Middle School. She talked to students about their upcoming trips, and how they worked on the planning and itinerary. She also attended the Black History Celebration at William B. Gibbs Elementary School.

Mr. Barclay reported that he and Dr. Docca made a presentation at the Black Ministers Alliance. He commented on the symposium on bullying which is an important topic. He was at Herbert Hoover Middle School and honored black achievers in honor of Black History Month. He encouraged schools to let the Board members know what is happening during Black History Month.

Ms. Brandman attended the meeting with the Commission on Children and Youth with Dr. Docca. The All-County Orchestra has been inclusive with representatives from all high schools.

Dr. Starr commented on Advanced Placement results, student town hall, MCR/MCJC students, Superintendent's Book Club, Maryland Blue Ribbon School, Intel Science Talent Search, community meetings, and Capital Improvements Program public hearing.

RESOLUTION NO. 38-12

Re: **NEW BUSINESS**

On motion of Mr. Kauffman and seconded by Mrs. O'Neill, the following resolution was unanimously accepted by members present to lay on the table until February 27, 2012:

WHEREAS, On July 29, 2004, the Board of Education adopted Policy CNA, *Informational Material and Announcements*; and

WHEREAS, On August 10, 2006, the United States Court of Appeals for the Fourth Circuit declared Board of Education Policy CNA, *Informational Material and Announcements*, unconstitutional in certain respects. Consequently, the implementation of the policy was suspended, pending action by the Board of Education

to revise the former policy; and

WHEREAS, On August 30, 2006, the Board of Education revised Policy CNA, *Informational Material and Announcements*, and authorized the superintendent to develop reasonable viewpoint-neutral regulations to implement this policy; and

WHEREAS, Pursuant to Policy CNA and Regulation CNA-RA, staff members at each school designate one (1) day within the first 15 days of the school year for the distribution of printed informational materials and announcements from nonprofit community organizations, as well as designate three additional days (one each after the end of the first, second, and third marking periods) for the distribution of printed informational materials and announcements from nonprofit community organizations; and

WHEREAS, In February 2012, schools distributed to students flyers from a community organization that prompted expressions of great concern from parents, staff, and students; therefore be it

Resolved, That the Board of Education direct the Policy Committee to review Policy CNA, *Informational Material and Announcements*, in light of the concerns raised by the community and to make a recommendation to the Board regarding any appropriate changes to the policy.

RESOLUTION NO. 39-12

Re: **AN AMENDMENT TO THE FISCAL YEAR
2013 OPERATING BUDGET**

On motion of Ms. Brandman and seconded by Mr. Kauffman, the following amendment was adopted unanimously by members present:#

Amend the 7th WHEREAS clause to read (new language in bold):

WHEREAS, Projected state aid revenue in addition to the amount recommended in the FY 2013 Operating Budget on December 7, 2011, is available to offset costs resulting from the forthcoming completion of negotiations between the Board of Education and its employee associations, **as well as to accelerate the provision of hours-based staffing for special education at all MCPS middle schools**; and

Add another Resolved that reads:

Resolved, That the Board of Education amend the FY 2013 Operating Budget by adding \$603,203 to accelerate the provision of hours-based staffing for special education to all remaining middle schools in FY 2013, funded from the increase in projected state aid revenue.

RESOLUTION NO. 39-12

Re: **ADOPTION OF FISCAL YEAR 2013
OPERATING BUDGET**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mrs. O'Neill, the following resolution was adopted unanimously by members present:#

WHEREAS, The superintendent of schools presented the Recommended Fiscal Year 2013 Operating Budget of \$2,128,206,958 to the Board of Education on December 7, 2011; and

WHEREAS, The Recommended Fiscal Year 2013 Operating Budget includes the Fiscal Year 2013 Special Education Staffing Plan; and

WHEREAS, The recommended county contribution of \$1,392,286,148 is at the Maintenance of Effort amount; and

WHEREAS, If Montgomery County fails to appropriate the minimum Maintenance of Effort amount or obtain a waiver from the Maryland State Board of Education, Montgomery County Public Schools could receive a penalty of the loss of increased state aid of up to \$12.7 million, in addition to the penalty of \$26.2 million that Montgomery County Public Schools may be assessed because the county failed to provide the required local contribution in Fiscal Year 2012; and

WHEREAS, A loss of increased local contribution of \$22.2 million as required by the Maryland State Maintenance of Effort law, the resulting penalty of the loss of additional state aid, and assessment of the \$26.2 million penalty for FY 2012 county noncompliance with Maintenance of Effort would require devastating budget reductions that would damage the quality of Montgomery County Public Schools; and

WHEREAS, Increases of state aid for Montgomery County Public Schools as recommended in the Governor's budget on January 19, 2012, total \$28,494,883; and

WHEREAS, Projected state aid revenue in addition to the amount recommended in the Fiscal Year 2013 Operating Budget on December 7, 2011, is available to offset costs resulting from the forthcoming completion of negotiations between the Board of Education and its employee associations, as well as accelerate the provision of hours-based staffing for special education at all Montgomery County Public Schools middle schools; and

WHEREAS, Fund balance of \$17,000,000 is available for appropriation in Fiscal Year 2013, leaving approximately \$13.2 million that will be available to fund future year operating budgets; and

WHEREAS, An additional \$797,644 is required for alternative governance plans for Forest Oak and Neelsville middle schools, both of which are in Year 4 of improvement

and are required to develop two-year alternative governance plans to address student and teacher needs, and for the Middle Years International Baccalaureate Program at Montgomery Village Middle School; and

WHEREAS, An additional \$221,021 is required for three additional prekindergarten classes to accommodate an additional 60 projected income-eligible children; and

WHEREAS, An additional \$300,000 is required for work with Gallup Consulting to facilitate the delivery of surveys that measure staff engagement; and

WHEREAS, An additional \$221,532 is required for 3.0 additional consulting teacher positions to provide sufficient support in the Peer Assistance and Review process for novice teachers and experienced underperforming teachers; and

WHEREAS, An additional \$1,540,197 of efficiencies and savings as described above have been identified to fully offset the required additions as detailed above; now therefore be it

Resolved, That the Montgomery County Board of Education approves the Fiscal Year 2013 Special Education Staffing Plan as outlined in the Superintendent's Recommended Fiscal Year 2013 Operating Budget; and be it further

Resolved, That upon final approval of the Fiscal Year 2013 Operating Budget in June 2012, the Special Education Staffing Plan will be submitted to the Maryland State Department of Education; and be it further

Resolved, That the Board of Education amend the Fiscal Year 2013 Operating Budget by adding \$603,203 to accelerate the provision of hours-based staffing for special education to all remaining middle schools in Fiscal Year 2013, funded from the increase in projected state aid revenue; and be it further

Resolved, That the Montgomery County Board of Education adopts the Superintendent's Recommended Fiscal Year 2013 Operating Budget as amended totaling \$2,132,839,512 as follows:

<u>Category</u>	Superintendent's Recommended/ BOE Amended <u>Operating Budget</u>
1 Administration	\$ 37,479,897
2 Mid-level Administration	136,594,627
3 Instructional Salaries	843,516,918
4 Textbooks and Instructional Supplies	25,084,043
5 Other Instructional Costs	13,459,980
6 Special Education	276,520,311

7	Student Personnel Services	10,806,410
8	Health Services	37,402
9	Student Transportation	95,480,010
10	Operation of Plant and Equipment	112,934,750
11	Maintenance of Plant	33,355,895
12	Fixed Charges	489,835,833
14	Community Services	208,495
37	MCPS Television Special Revenue Fund	1,495,061
51	Real Estate Fund	3,520,603
61	Food Service Fund	47,476,295
71	Field Trip Fund	2,026,046
81	Entrepreneurial Activities	3,006,936
Total		<u>\$2,132,839,512</u>

Re: **LUNCH AND CLOSED SESSION**

The Board of Education recessed for lunch and closed session (12:28 to 1:48 p.m.)

The Board of Education reconvened on Open Session at 2:03 p.m.

RESOLUTION NO. 41-12 Re: **CONTRACTS OF \$25,000 OR MORE**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; and

WHEREAS, Funds have been budgeted for the lease/purchase of a library management system through Bid No. JMI-601-07; and

WHEREAS, The acquisition of a library management system has been reviewed by legal counsel; now therefore be it

Resolved, That a library management system in the amount of \$552,239 be leased/purchased for a five-year term under the Master Lease/Purchase Agreement with Banc of America Public Capital Corporation; and be it further

Resolved, That the proceeds from the aforementioned financing be used to reimburse Montgomery County Public Schools accounts to the extent that such equipment has been or will be acquired before closing; and be it further

Resolved, That the Board of Education president and superintendent of schools be authorized to execute the documents necessary for these transactions; and be it further

Resolved, That having been duly advertised, the following contracts will be awarded to

the low bidders meeting specifications as follows:

JMI-601-07	Library Management System <u>Awardee</u> Follett Software Company	\$799,774
JMI-603-12	Stone, Mulch, Topsoil, and Associated Materials <u>Awardee</u> Zeager Brothers, Inc.	\$150,000
RQ0893 478222C	Carrier Absorption Chiller <u>Awardee</u> Carrier Corporation	\$ 47,043
RQ10-12 2997-12A	Motor Oils, Lubricants, Greases, and Related Items—Extension <u>Awardee</u> Tilley Chemical Company	\$250,000
034.10.B2	Art Supplies/Online Catalog—Extension <u>Awardee</u> School Specialty, Inc.	\$125,000
0367000 079GH	Off-the-Lot, New Vehicles <u>Awardee</u> Criswell Chevrolet, Inc.	\$ 53,400
05091	Appliances and Retail—Extension <u>Awardee</u> Home Depot, USA, Inc.	\$120,000
060B140 0058	Long Distance Services <u>Awardee</u> AT&T Corporation	\$ 70,032
08-04026	Science/Labware Supplies and Equipment—Extension <u>Awardee</u> Fisher Scientific Company	\$125,000

1012862	Janitorial Supplies and Equipment—Extension	
	<u>Awardee</u> Grainger, Inc.	\$250,000
110121	Internet Service Provider—Extension	
	<u>Awardee</u> Atlantech Online, Inc.	\$384,000
11019-RFP	Maintenance, Repair, Operating Supplies—Extension	
	<u>Awardee</u> Home Depot, USA, Inc.	\$150,000
121EN-TI SA2010- 0512	Long Distance	
	<u>Awardee</u> Verizon Business	\$ 49,956
39256000 0948970-D	Other Telecommunications—Extension	
	<u>Awardees</u> Comcast	\$500,632
	Verizon Maryland, Inc.	<u>177,610</u>
	Total	\$678,242
39256000 0948970-V	Other Voice Services—Extension	
	<u>Awardees</u>	
	Atlantech Online, Inc.	\$ 62,820
	Verizon Business	<u>566,110</u>
	Total	\$628,930
39256000 0948970-W	Wireless Voice & Data Services—Extension	
	<u>Awardees</u> (See note)	
	AT&T Mobility	
	Sprint-Nextel Corporation	
	Verizon Wireless	
	Total	\$819,641
1033.2	Legal Services for Special Education and Related Services—Extension	

	<u>Awardees</u> (See note)	
	Carney, Kelehan, Bresler, Bennett & Scherr, LLP	
	Jeffrey A. Krew	
	Nussbaum Law, LLC	
	Total	\$400,000
1139.3	Actuarial Consulting Services	
	<u>Awardee</u>	
	AON Hewitt	\$ 56,000
4054.6	Bathroom Partition Repair Parts	
	<u>Awardee</u>	
	Centar Industries	\$ 38,278
4063.10	Art Supplies—Extension	
	<u>Awardees</u>	
	Commercial Art Supply	\$ 29,197
	DGS Educational Products*	9,068
	Dick Blick East	5,336
	Elgin School Supply Company, Inc.	1,393
	Integrity School Supplies*	1,682
	Interstate Office Supply Company*	1,569
	Jackmans, Inc.	6,648
	National Art & School Supplies	3,347
	Pyramid Paper Company	172,326
	Quill Corporation	2,117
	School Specialty, Inc.	6,267
	Standard Stationary Supply Company	<u>27,483</u>
	Total	\$266,433
4079.10	Health Room Supplies—Extension	
	<u>Awardees</u>	
	BP Gamma Medical	\$ 2,630
	Calico Industries, Inc.	72,088
	Emergency Medical Products, Inc.	9,045
	Fritz Capitol, LLC	23,562
	Gentle Care Home Delivery, LLC*	2,017
	Henry Schein, Inc.	7,987
	Medline Industries, Inc.	598
	Moore Medical, LLC	76,706
	S. Freedman & Sons, Inc.	147,572
	School Health Corporation*	22,096

	Supreme Medical Systems, Inc.	<u>3,683</u>
	Total	\$367,984
4100.5	Fire Alarm Parts—Extension	
	<u>Awardees</u>	
	Chubb Fire & Security	\$ 7,020
	International Systems of America, LLC	19,272
	Maryland Fire Equipment Corporation	7,992
	Silmar Electronics*	<u>43,577</u>
	Total	\$ 77,861
4144.3	Technology Laboratory Workstations—Extension	
	<u>Awardees</u> (See note)	
	Diversified Educational Systems, Inc.	
	Pepco, Inc.	
	Satco Supply	
	Total	\$ 50,000
4317.1	Nonviolent Crisis Intervention Program	
	<u>Awardee</u>	
	Crisis Prevention Institute	\$ 25,000
7120.6	Elementary Mathematics Supplies	
	<u>Awardees</u>	
	Eric Armin, Inc.	\$ 15,039
	ETA/Cuisenaire*	15,467
	Fisher Scientific Company	1,206
	Lakeshore Learning Materials	1,184
	Nasco	3,411
	School Specialty, Inc.	<u>4,078</u>
	Total	\$ 40,385
7124.4	Pest Control Materials—Extension	
	<u>Awardees</u>	
	J.C. Ehrlich Chemical Company, Inc.*	\$ 23,083
	Univar USA	<u>16,917</u>
	Total	\$ 40,000
9006.5	Shade/Upholstery Materials	
	<u>Awardees</u>	

	Frankel Associates, Inc.	\$ 41,865
	Mileham & King, Inc.	13,150
	PACJ, LLC*	25,479
	Tedco Industries, Inc.	<u>7,739</u>
	Total	\$ 88,233
9018.4	Operable Wall System Preventive Maintenance—Extension	
	<u>Awardee</u>	
	Modern Door and Equipment Sales, Inc.	\$ 30,000
9022.6	Building Materials—Extension	
	<u>Awardees</u>	
	Capitol Building Supply	\$ 2,733
	Liberty Lumber & Supply Company	38,229
	Patuxent Materials, Inc.	<u>19,739</u>
	Total	\$ 60,701
9057.7	Baseball Supplies and Equipment—Extension	
	<u>Awardees</u>	
	Hat World, Inc.	\$ 16,728
	Riddell	483
	Sport Supply Group, Inc.	20,659
	Sports Stop, Inc.	15,736
	Taylor Sports and Recreation	<u>353</u>
	Total	\$ 53,959
9116.5	Detergents and Cleaners, Laundry and Kitchen Use—Extension	
	<u>Awardee</u>	
	Acme Paper & Supply Company, Inc.	\$ 40,000
9190.4	Restroom Partition Replacement at Various Locations—Extension**	
	<u>Awardee</u>	
	Steel Products, Inc.*	\$148,975
9302.4	Installation of Carpeting, Resilient Flooring, and Accessories**	
	<u>Awardee</u>	
	Carpet Experts, Inc.*	\$250,000
9397.3	Fire Alarm, Sprinkler Systems Inspection—Extension**	

	<u>Awardee</u> VSC Fire and Security	\$207,354
9398.2	Retaining Walls and Stormwater Management Modifications— Extension**	
	<u>Awardee</u> Walker Willis/T/A Custom Masonry	\$800,000
9620.3	Replace Acoustical Suspended Ceiling Systems at Various Locations—Extension**	
	<u>Awardee</u> Unisource Services, LLC*	\$800,000
9679.1	Portable Fire Extinguisher and Kitchen Hood Fire—Extension**	
	<u>Awardee</u> BFPE International*	\$ 100,000
TOTAL PROCUREMENT CONTRACTS OVER \$25,000		\$8,642,181

* Denotes Minority-, Female-, or Disabled-owned Business

**Planned Life-cycle Asset Replacement (PLAR)

Note: Contract amounts will be based on individual requirements.

RESOLUTION NO. 42-12 Re: **CONTRACT APPROVAL FOR BID NO.
183632, LOCAL TELEPHONE SERVICES—
EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been duly advertised, the following contract will be awarded to the low bidder meeting specifications as shown below:

183632	Local Telephone Services—Extension	
	<u>Awardee</u> Verizon Maryland, Inc.	\$1,891,181

RESOLUTION NO. 43-12 Re: **CONTRACT APPROVAL FOR BID NO. GS-35F-0765R, NETWORK WIRING, INSTALLATION, AND INTEGRATION—EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been issued by the United States General Services Administration under full and open competition, the following contract will be awarded to the low bidder meeting specifications as shown below:

GS-35F-0765R	Network Wiring, Installation and Integration—Extension	
	<u>Awardee</u>	
	Netcom Technologies, Inc.	\$1,234,500

RESOLUTION NO. 44-12 Re: **CONTRACT APPROVAL FOR BID NO. 4087.9, OFFICE AND SCHOOL SUPPLIES—EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been duly advertised, the following contracts will be awarded to the low responsive bidders meeting specifications as shown below:

4087.9	Office and School Supplies—Extension	
	<u>Awardees</u>	
	AFP Industries, Inc.	*\$180,880
	Business Stationers	4,542
	DGS Educational Products*	8,322
	Elgin School Supply Company, Inc.	391
	Impact Office Products	23,945
	Integrity School Supplies*	93,418
	Interstate Office Supply Company*	100,991
	OfficeMax	2,837
	Pyramid Paper Company	544,266
	Quill Corporation	152,449

Rudolph's Office and Computer Supply, Inc.*	636
Standard Stationary Supply Company	163,071
Star Poly Bag, Inc.*	10,353
Total	1,286,101

*Denotes Minority-, Female-, or Disabled-owned Business

RESOLUTION NO. 45-12 Re: **CONTRACT APPROVAL FOR BID NO.
7067.4, COMPUTER NETWORK
EQUIPMENT, SOFTWARE, AND
SERVICES—EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been duly advertised, the following contract will be awarded to the low bidder meeting specifications as shown below:

7067.4 Computer Network Equipment, Software, and Services—Extension

<u>Awardee</u>	
DISYS Solutions, Inc.	\$4,911,105

RESOLUTION NO. 46-12 Re: **CONTRACT APPROVAL FOR BID NO.
9053.4, PLAYGROUND SYSTEMS AND
INDIVIDUAL PIECES—EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, Funds have been budgeted for the purchase of equipment, supplies, and contractual services; now therefore be it

Resolved, That having been duly advertised, the following contract has been awarded to pre-approved suppliers meeting specifications as shown below:

9053.4 Playground Systems and Individual Pieces—Extension**

<u>Awardees</u> (See note below)	
Playground Specialists, Inc.	
Southern Playground	
West Recreation, Inc.	
Total	\$1,000,000

****Planned Life-cycle Asset Replacement (PLAR)**

Note: Contract amounts will be based on individual requirements.

RESOLUTION NO. 47-12

Re: **RECOMMENDED MEMBERSHIP TO
BUYBOARD NATIONAL PURCHASING
COOPERATIVE**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The BuyBoard National Purchasing Cooperative was created for the benefit of school districts and other governmental entities; and

WHEREAS, Montgomery County Public Schools desires to join other school systems and governmental entities to take advantage of the BuyBoard National Purchasing Cooperative's ability to receive competitive price quotes and volume discounts for purchasing goods and services; now therefore be it

Resolved, That the Board of Education authorizes Montgomery County Public Schools to enter into the BuyBoard National Purchasing Cooperative by executing the National Purchasing Cooperative Organizational Interlocal Agreement, pursuant to Maryland Annotated Code, State Finance and Procurement, Section 13-110; and be it further

Resolved, That the president of the Board of Education and the superintendent of schools are authorized to execute the National Purchasing Cooperative Organizational Interlocal Agreement.

RESOLUTION NO. 48-12

Re: **ARCHITECTURAL APPOINTMENT—CAPT.
JAMES E. DALY ELEMENTARY SCHOOL
ADDITION FEASIBILITY STUDY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint an architectural firm to provide professional and technical services to perform a feasibility study for the Capt. James E. Daly Elementary School addition project; and

WHEREAS, Funds for conducting feasibility studies were programmed as part of the Fiscal Year 2012 Capital Budget; and

WHEREAS, An Architect Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Smolen-Emr-Ilkovitch Architects as the most qualified firm to provide the necessary professional architectural and engineering services; and

WHEREAS, Staff in the Department of Facilities Management has negotiated a fee for the necessary architectural and engineering services; now therefore be it

Resolved, That the Montgomery County Board of Education enters into a contractual agreement with the architectural firm of Smolen-Emr-Ilkovitch Architects to provide feasibility study services for the Capt. James E. Daly Elementary School addition project for a fee of \$35,000.

RESOLUTION NO. 49-12 Re: **ARCHITECTURAL APPOINTMENT—S.
CHRISTA MCAULIFFE ELEMENTARY
SCHOOL ADDITION FEASIBILITY STUDY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint an architectural firm to provide professional and technical services to perform a feasibility study for the S. Christa McAuliffe Elementary School addition project; and

WHEREAS, Funds for conducting feasibility studies were programmed as part of the Fiscal Year 2012 Capital Budget; and

WHEREAS, An Architect Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Hord Coplan Macht, Inc. as the most qualified firm to provide the necessary professional architectural and engineering services; and

WHEREAS, Staff in the Department of Facilities Management has negotiated a fee for the necessary architectural and engineering services; now therefore be it

Resolved, That the Montgomery County Board of Education enters into a contractual agreement with the architectural firm of Hord Coplan Macht, Inc. to provide feasibility study services for the S. Christa McAuliffe Elementary School addition project for a fee of \$35,000.

RESOLUTION NO. 50-12 Re: **ARCHITECTURAL APPOINTMENT---JUDITH
A. RESNIK ELEMENTARY SCHOOL
ADDITION FEASIBILITY STUDY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint an architectural firm to provide professional and technical services to perform a feasibility study for the Judith A. Resnik Elementary School addition project; and

WHEREAS, Funds for conducting feasibility studies were programmed as part of the Fiscal Year 2012 Capital Budget; and

WHEREAS, An Architect Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Proffitt & Associates Architects as the most qualified firm to provide the necessary professional architectural and engineering services; and

WHEREAS, Staff in the Department of Facilities Management has negotiated a fee for the necessary architectural and engineering services; now therefore be it

Resolved, That the Montgomery County Board of Education enters into a contractual agreement with the architectural firm of Proffitt & Associates Architects to provide feasibility study services for the Judith A. Resnik Elementary School addition project for a fee of \$35,000.

RESOLUTION NO. 51-12

Re: **ARCHITECTURAL APPOINTMENT—
STRAWBERRY KNOLL ELEMENTARY
SCHOOL ADDITION FEASIBILITY STUDY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint an architectural firm to provide professional and technical services to perform a feasibility study for the Strawberry Knoll Elementary School addition project; and

WHEREAS, Funds for conducting feasibility studies were programmed as part of the Fiscal Year 2012 Capital Budget; and

WHEREAS, An Architect Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Delmar Architects, P.A. as the most qualified firm to provide the necessary professional architectural and engineering services; and

WHEREAS, Staff in the Department of Facilities Management has negotiated a fee for the necessary architectural and engineering services; now therefore be it

Resolved, That the Montgomery County Board of Education enters into a contractual agreement with the architectural firm of Delmar Architects, P.A. to provide feasibility study services for the Strawberry Knoll Elementary School addition project for a fee of \$35,000.

RESOLUTION NO. 52-12

Re: **AWARD OF CONTRACTS—BRADLEY
HILLS ELEMENTARY SCHOOL ADDITION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, On October 25, 2010, the Board of Education authorized staff in the Department of Facilities Management to utilize a construction management process for the Bradley Hills Elementary School addition project and awarded a contract for preconstruction services to Oak Contracting, LLC; and

WHEREAS, The following low bids were received on November 14, 2011, and December 14, 2011, for the Bradley Hills Elementary School addition project:

<u>Low Bidders</u>	<u>Amounts</u>
2A-Demo/Site work—Pleasants Construction, Inc.	\$3,345,000
3A-Concrete—Canyon Contracting, Inc.	624,250
4A-Masonry—KaRon Masonry of Maryland, Inc.	1,363,500
5A-Steel—S.A. Halac Iron Works, Inc.	884,650
6A-Carpentry/Casework—MRP Contractors, LLC	1,239,400
7A-Roofing—Interstate Corporation	960,000
9A-Drywall/Acoustical—Can-Am Contractors, Inc.	315,900
15A-Mechanical—R.W. Warner, Inc.	3,242,200
16A-Electrical—Altimate Electric, Inc.	1,310,910

and

WHEREAS, On November 14, 2011, Oak Contracting, LLC received bid proposals for the remaining trade contracts for the project, which will be included in the guaranteed maximum price; and

WHEREAS, Detailed information on other bid proposals are available for review in the Department of Facilities Management; and

WHEREAS, The construction management contract contains provisions that permit Montgomery County Public Schools to assign the awarded trade contracts to Oak Contracting, LLC as part of a guaranteed price agreement to complete the Bradley Hills Elementary School addition project; and

WHEREAS, Staff in the Department of Facilities Management has negotiated and recommends approval of a guaranteed price contract with Oak Contracting, LLC for the completion of the Bradley Hills Elementary School addition project that includes the assignment of trade work awarded by Montgomery County Public Schools, along with all management and general conditions costs; and

WHEREAS, Oak Contracting, LLC has agreed to accept the assignment of the Bradley Hills Elementary School trade contracts awarded on February 14, 2012, and complete the project for the guaranteed price; and

WHEREAS, The aggregate goal for Maryland Department of Transportation-certified Minority Business Enterprise participation established for this project was 12 percent; and

WHEREAS, The aggregate Minority Business Enterprise participation submitted is 18.12 percent Maryland Department of Transportation-certified, of which 4.60 percent is African American-owned, 6.52 percent is women-owned, and 7.00 percent is other minority-owned; and

WHEREAS, The guaranteed maximum price contract with Oak Contracting, LLC includes add-alternates for various improvements to be funded by the Bradley Hills Education Foundation, and the Board of Education approved the Foundation's request, per Board Policy CNE, *Facility Improvements That Are Not Funded with Montgomery County Revenues*, on April 28, 2011; and

WHEREAS, The shortfall in the funding for this project is addressed in the February 14, 2012, agenda item entitled Fiscal Year 2012 Capital Improvements Program—Transfer of Funds, and surplus funds from two Fiscal Year 2011 projects have been identified and are available to be transferred to the Unliquidated Surplus account to fund this award of contracts, upon approval of the Board of Education and the County Council; now therefore be it

Resolved, That the following trade contract packages be awarded to the low bidders for the construction of the Bradley Hills Elementary School addition project:

<u>Low Bidders</u>	<u>Amounts</u>
2A-Demo/Site work—Pleasants Construction, Inc.	\$3,345,000
3A-Concrete—Canyon Contracting, Inc.	624,250
4A-Masonry—KaRon Masonry of Maryland, Inc.	1,363,500
5A-Steel—S.A. Halac Iron Works, Inc.	884,650
6A-Carpentry/Casework—MRP Contractors, LLC	1,239,400
7A-Roofing—Interstate Corporation	960,000
9A-Drywall/Acoustical—Can-Am Contractors, Inc.	315,900
15A-Mechanical—R.W. Warner, Inc.	3,242,200
16A-Electrical—Altimate Electric, Inc.	1,310,910

and be it further

Resolved, That the trade contracts awarded for the Bradley Hills Elementary School addition project be assigned to Oak Contracting, LLC; and be it further

Resolved, That a contract in the amount of \$16,880,697, to include the assignment of the trade contract awards, be awarded to Oak Contracting, LLC for the Bradley Hills Elementary School addition project, in accordance with drawings and specifications prepared by Proffitt & Associates Architects, contingent upon Board of Education and County Council approval of the request for Capital Improvements Program Transfer of Funds.

RESOLUTION NO. 53-12

Re: **AWARD OF CONTRACT—RACHEL
CARSON ELEMENTARY SCHOOL RE-
ROOFING**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The following sealed bids were received on December 20, 2011, for the Rachel Carson Elementary School re-roofing project:

<u>Bidder</u>	<u>Amount</u>
Orndorff & Spaid, Inc.	\$895,557
Interstate Corporation	929,500
J. E. Wood & Sons Company, Inc.	996,298

and

WHEREAS, The goal for Maryland Department of Transportation-certified Minority Business Enterprise participation established for this project was 20 percent; and

WHEREAS, The low bidder, Orndorff & Spaid, Inc., has submitted 20 percent African American Maryland Department of Transportation-certified Minority Business Enterprise participation; and

WHEREAS, Orndorff & Spaid, Inc. has completed similar work successfully for Montgomery County Public Schools; now therefore be it

Resolved, That an \$895,557 contract be awarded to Orndorff & Spaid, Inc. for the Rachel Carson Elementary School re-roofing project, in accordance with drawings and specifications prepared by the Department of Facilities Management.

RESOLUTION NO. 54-12

Re: **AWARD OF CONTRACTS—DARNESTOWN
ELEMENTARY SCHOOL ADDITION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, On December 7, 2010, the Board of Education authorized staff in the

Department of Facilities Management to utilize a construction management process for the Darnestown Elementary School addition project and awarded a contract for preconstruction services to Dustin Construction, Inc.; and

WHEREAS, On June 27, 2011, the Board of Education awarded a contract in the amount of \$4,531,288 to Pleasants Construction, Inc. for the Darnestown Elementary School septic system replacement and site work; and

WHEREAS, The following low bids were received on January 12, 2012, for the Darnestown Elementary School addition project:

<u>Low Bidders</u>	<u>Amounts</u>
3A-Concrete—Chevy Chase Contractors, Inc.	\$535,000
4A-Masonry—KaRon Masonry of Maryland, Inc.	1,002,000
5A-Steel—Champion Iron Works, Inc.	591,500
6A-Carpentry—MRP Contractors, LLC	543,800
7A-Roofing—Orndorff and Spaid, Inc.	493,326
8A-Windows—Engineered Construction Products, LTD	251,130
9A-Drywall/Acoustical—Can-Am Contractors, Inc.	121,500
15A-PHVAC—Mallick Plumbing & Heating, Inc.	2,747,200
16A-Electrical—CT Electrical Corporation	844,900

and

WHEREAS, On January 12, 2012, Dustin Construction, Inc. received bid proposals for the remaining trade contracts for the project, which will be included in the guaranteed maximum price; and

WHEREAS, Detailed information on other bid proposals are available for review in the Department of Facilities Management; and

WHEREAS, The construction management contract contains provisions that permit Montgomery County Public Schools to assign the awarded trade contracts to Dustin Construction, Inc. as part of a guaranteed price agreement to complete the Darnestown Elementary School addition project; and

WHEREAS, Staff in the Department of Facilities Management has negotiated and recommends approval of a guaranteed price contract with Dustin Construction, Inc. for the completion of the Darnestown Elementary School addition project that includes the assignment of trade work awarded by Montgomery County Public Schools, along with all management and general conditions costs; and

WHEREAS, Dustin Construction, Inc. has agreed to accept the assignment of the Darnestown Elementary School trade contracts awarded on June 27, 2011, and February 14, 2012, and complete the project for the guaranteed price; and

WHEREAS, The aggregate goal for Maryland Department of Transportation-certified Minority Business Enterprise participation established for this project was 15 percent; and

WHEREAS, The aggregate Minority Business Enterprise participation submitted is 20.91 percent Maryland Department of Transportation-certified, of which 2.24 percent is African American-owned, 12.95 percent is women-owned, and 5.72 percent is other minority-owned; and

WHEREAS, The shortfall in the funding for this project is addressed in the February 14, 2012, item entitled Fiscal Year 2012 Capital Improvements Program—Transfer of Funds, and surplus funds from two Fiscal Year 2011 projects have been identified and are available to be transferred to the Unliquidated Surplus account to fund this award of contracts, upon approval of the Board of Education and County Council; now therefore be it

Resolved, That the following trade contract packages be awarded to the low bidders for the construction of the Darnestown Elementary School addition:

<u>Low Bidders</u>	<u>Amounts</u>
3A-Concrete—Chevy Chase Contractors, Inc.	\$535,000
4A-Masonry—KaRon Masonry of Maryland, Inc.	1,002,000
5A-Steel—Champion Iron Works, Inc.	591,500
6A-Carpentry—MRP Contractors, LLC	543,800
7A-Roofing—Orndorff and Spaid, Inc.	493,326
8A-Windows—Engineered Construction Products, LTD	251,130
9A-Drywall/Acoustical—Can-Am Contractors, Inc.	121,500
15A-PHVAC—Mallick Plumbing & Heating, Inc.	2,747,200
16A-Electrical—CT Electrical Corporation	844,900

and be it further

Resolved, That the trade contracts awarded for the Darnestown Elementary School addition project be assigned to Dustin Construction, Inc.; and be it further

Resolved, That a contract in the amount of \$14,754,914, to include the assignment of the trade contract awards, be awarded to Dustin Construction, Inc. for the Darnestown Elementary School addition project, in accordance with drawings and specifications prepared by Gauthier, Alvarado & Associates, Inc., contingent upon Board of Education and County Council approval of the request for Capital Improvements Program Transfer of Funds.

RESOLUTION NO. 55-12

Re: **AWARD OF CONTRACT—FAIRLAND
ELEMENTARY SCHOOL RE-ROOFING**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The following sealed bids were received on January 25, 2012, for the Fairland Elementary School re-roofing project:

<u>Bidder</u>	<u>Amount</u>
R. D. Bean, Inc.	\$592,365
Orndorff & Spaid, Inc.	596,494
Interstate Corporation	733,000
Cole Roofing Company, Inc.	795,917
J. E. Wood & Sons Company, Inc.	815,009
National Roofing Company, Inc.	1,036,000

and

WHEREAS, The goal for Maryland Department of Transportation-certified Minority Business Enterprise participation established for this project was 20 percent; and

WHEREAS, The low bidder, R. D. Bean, Inc., has submitted 20 percent other minority-owned Maryland Department of Transportation-certified Minority Business Enterprise participation; and

WHEREAS, R. D. Bean, Inc. has completed similar work successfully for Montgomery County Public Schools; now therefore be it

Resolved, That a \$592,365 contract be awarded to R. D. Bean, Inc. for the Fairland Elementary School re-roofing project, in accordance with drawings and specifications prepared by the Department of Facilities Management.

RESOLUTION NO. 56-12

Re: **AWARD OF CONTRACT—SOUTH LAKE
ELEMENTARY SCHOOL HEATING,
VENTILATION, AND AIR CONDITIONING
RENOVATIONS**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The following sealed bids were received on January 5, 2012, for the South Lake Elementary School Heating, Ventilation, and Air Conditioning renovation project:

<u>Bidder</u>	<u>Amount</u>
Shapiro & Duncan, Inc.	\$1,186,000
Mallick Plumbing & Heating, Inc.	1,220,000
W.L. Gary Company, Inc.	1,434,000

and

WHEREAS, The goal for Maryland Department of Transportation-certified Minority Business Enterprise participation established for this project was 10 percent; and

WHEREAS, The low bidder, Shapiro & Duncan, Inc., has submitted 15.6 percent women-owned Maryland Department of Transportation-certified Minority Business Enterprise participation; and

WHEREAS, Shapiro & Duncan, Inc. has completed similar work successfully for Montgomery County Public Schools; now therefore be it

Resolved, That a \$1,186,000 contract be awarded to Shapiro & Duncan, Inc. for the South Lake Elementary School Heating, Ventilation, and Air Conditioning renovation project, in accordance with drawings and specifications prepared by Burdette, Koehler, Murphy & Associates, Inc.

RESOLUTION NO. 57-12 Re: **CONSULTANT APPOINTMENT—NATURAL RESOURCE INVENTORY AND FOREST STAND DELINEATION EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint an engineering firm to provide professional natural resource inventory and forest stand delineation services for various capital projects; and

WHEREAS, A Consultant Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Norton Land Design, LLC as the most qualified firm to provide the necessary professional forest conservation plan, natural resource inventory, and forest stand delineation services; and

WHEREAS, Staff in the Department of Facilities Management will negotiate fees for the necessary natural resource inventory and forest stand delineation services for each project based on the size and complexity of individual projects; now therefore be it

Resolved, That the Montgomery County Board of Education extends the contractual agreement with the firm of Norton Land Design, LLC to provide a professional forest conservation plan, natural resource inventory, and forest stand delineation services for

various capital projects, as requirements arise, with each individual project contract not to exceed \$50,000.

RESOLUTION NO. 58-12 Re: **CONSULTANT APPOINTMENT—
TOPOGRAPHY SURVEY EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint a survey firm to provide professional boundary and topography survey services for various capital projects; and

WHEREAS, A Consultant Selection Committee, in accordance with procedures adopted by the Board of Education on April 20, 2006, identified Meridian Surveys, Inc. as the most qualified firm to provide the necessary professional topography survey services; and

WHEREAS, Staff in the Department of Facilities Management will negotiate fees for the necessary topography survey services for each project based on the size and complexity of individual projects; now therefore be it

Resolved, That the Montgomery County Board of Education extends the contractual agreement with the firm Meridian Surveys, Inc. to provide professional topography survey services for various capital projects, as requirements arise, with each individual project contract not to exceed \$90,000.

RESOLUTION NO. 59-12 Re: **ENGINEERING APPOINTMENTS—
COMMISSIONING AGENTS EXTENSION**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, It is necessary to appoint engineering firms to provide professional commissioning services to ensure that building systems function efficiently and satisfy the operational needs for the building; and

WHEREAS, The following companies were selected as the most qualified companies through the architect/engineer selection procedures approved by the Board of Education on April 20, 2006:

<u>Company Name</u>	<u>Location</u>
Advanced Building Performance, Inc.	Potomac, Maryland
Allen & Shariff Corporation	Columbia, Maryland
Brinjac Engineering, Inc.	Washington, DC
McDonough Bolyard Peck, Inc.	Columbia, Maryland

RMF Engineering, Inc.
Reynolds Consulting Engineers, Inc.

Baltimore, Maryland
Harrisburg, Pennsylvania

and

WHEREAS, Staff in the Department of Facilities Management will negotiate fees for the necessary commissioning services based on the size and complexity of individual projects; now therefore be it

Resolved, That the Montgomery County Board of Education extends the contractual agreements with the above-named firms to provide professional commissioning services for individual capital projects as requirements arise, with each individual project contract not to exceed \$150,000.

RESOLUTION NO. 60--12

Re: **PRECONSTRUCTION/CONSTRUCTION
MANAGEMENT SERVICES—WILLIAM H.
FARQUHAR MIDDLE SCHOOL**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The Fiscal Year 2011–2016 Capital Improvements Program includes planning funds for the William H. Farquhar Middle School modernization project; and

WHEREAS, The design phase of this project is commencing, with construction anticipated to begin in June 2014 and be completed by August 2016, pending approval of the requested Capital Improvements Program; and

WHEREAS, Staff in the Department of Facilities Management has recommended that this project be completed using a construction management delivery system due to its complexities and scope of work; and

WHEREAS, A Consultant Selection Committee, utilizing procedures adopted by the Board of Education on April 20, 2006, identified Dustin Construction, Inc. as the most qualified firm to provide the necessary management services; and

WHEREAS, The management services will be implemented in two phases; and

WHEREAS, The initial phase will consist of preconstruction services for cost estimating, value engineering, constructability reviews, and the development of the construction implementation schedule; and

WHEREAS, Staff in the Department of Facilities Management has negotiated a fee for the preconstruction services; and

WHEREAS, The second phase will consist of general construction management

services, and a fee for this phase will be negotiated once the preconstruction services are completed; now therefore be it

Resolved, That the Montgomery County Board of Education enters into a contractual agreement with Dustin Construction, Inc. to provide preconstruction services for cost estimating, value engineering, constructability reviews, and the development of the construction implementation schedule for the William H. Farquhar Middle School modernization project for a fee of \$115,000.

RESOLUTION NO. 61-12

Re: **DELEGATION OF ENERGY PROCUREMENT AUTHORITY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, There is a very short duration for analyzing and accepting energy supply offers due to market volatility; and

WHEREAS, A continuing delegation of authority is needed to execute energy supply purchases under the energy cost management plan; and

WHEREAS, The energy supply purchases executed as a result of this delegation of authority are allocated to established Montgomery County Public Schools energy supply accounts in compliance with an energy cost management plan; and

WHEREAS, Periodic energy procurement reports are submitted to the Board of Education providing information on the energy purchases made through this delegation of authority and the performance of the energy cost management plan; and

WHEREAS, Similar delegations of authority were approved by the Board on February 14, 2006; May 13, 2008; April 15, 2010; and July 8, 2010; now therefore be it

Resolved, That the authority to commit Montgomery County Public Schools to electricity or natural gas supply purchases be delegated to Mr. Larry A. Bowers, chief operating officer, or Mr. James Song, director, Department of Facilities Management; and be it further

Resolved, That the delegation of authority is limited to the energy purchases through existing energy supply contracts and is effective on the date of this resolution until such time as the superintendent of schools or the Board of Education terminates this delegation.

RESOLUTION NO. 62-12

Re: **DARNESTOWN ELEMENTARY SCHOOL—
AGREEMENT FOR RECIPROCAL
EASEMENTS**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, As a part of the addition project at Darnestown Elementary School, located at 15030 Turkey Foot Road in Gaithersburg, Montgomery County Public Schools needs an ingress/egress access easement consisting of 200 square feet over a portion of property titled to the Board of Trustees of the Darnestown Presbyterian Church; and

WHEREAS, A section of the driveway to the Darnestown Presbyterian Church cemetery, consisting of 997 square feet, crosses over a portion of the Darnestown Elementary School that is not used for school programming purposes; and

WHEREAS, Both Montgomery County Public Schools and the Darnestown Presbyterian Church desire and are willing to provide the reciprocal access easements, each to the other, in order to facilitate each party's access and egress from its property; now therefore be it

Resolved, That the president of the Board of Education and the superintendent of schools be authorized to execute an Agreement for Reciprocal Easements with the Board of Trustees of the Darnestown Presbyterian Church that grants the Board of Education 200 square feet for an access easement over the Darnestown Presbyterian Church and grants to the Board of Trustees of the Darnestown Presbyterian Church 997 square feet for an access easement over the Darnestown Elementary School site.

RESOLUTION NO. 63-12

Re: **PINEY BRANCH ELEMENTARY SCHOOL—
GRANT OF EASEMENT AND RIGHT-OF-
WAY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The Washington Suburban Sanitary Commission has requested a grant of easement and right-of-way at Piney Branch Elementary School, located at 7510 Maple Avenue in Takoma Park; and

WHEREAS, The proposed grant of easement and right-of-way, consisting of 728 square feet, is needed for the installation of a water main, meter vault, and appurtenances; and

WHEREAS, A temporary construction easement consisting of 231 square feet is needed during the period of original construction; and

WHEREAS, The Washington Suburban Sanitary Commission will assume responsibility for the initial expense and liability of damages or injury resulting from the installation and will be responsible for all future maintenance and repair activities; and

WHEREAS, The proposed easement and right-of-way will not affect any land that could be used for school programming and recreational activities and will provide improved water meter equipment and appurtenances; now therefore be it

Resolved, That the president of the Board of Education and the superintendent of schools be authorized to execute a permanent grant of easement and right-of-way of 728 square feet and a temporary construction easement of 231 square feet to the Washington Suburban Sanitary Commission at Piney Branch Elementary School.

RESOLUTION NO. 64-12 Re: **WHEATON HIGH SCHOOL—GRANT OF EASEMENT AND RIGHT-OF-WAY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The Washington Suburban Sanitary Commission has requested a grant of easement and right-of-way at Wheaton High School, located at 12601 Dalewood Drive in Silver Spring; and

WHEREAS, The proposed grant of easement and right-of-way, consisting of 466 square feet, is needed for the installation of a water main, meter vault, and appurtenances; and

WHEREAS, A temporary construction easement consisting of 848 square feet is needed during the period of original construction; and

WHEREAS, The Washington Suburban Sanitary Commission will assume responsibility for the initial expense and liability of damages or injury resulting from the installation and will be responsible for all future maintenance and repair activities; and

WHEREAS, The proposed easement and right-of-way will not affect any land that could be used for school programming and recreational activities and will provide improved water meter equipment and appurtenances; now therefore be it

Resolved, That the president of the Board of Education and the superintendent of schools be authorized to execute a permanent grant of easement and right-of-way of 466 square feet and a temporary construction easement of 848 square feet to the Washington Suburban Sanitary Commission at Wheaton High School.

RESOLUTION NO. 65-12 Re: **RIDGEVIEW MIDDLE SCHOOL—GRANT OF EASEMENT AND RIGHT-OF-WAY**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by

Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The Washington Suburban Sanitary Commission has requested a grant of easement and right-of-way at Ridgeview Middle School, located at 16600 Raven Rock Drive in Gaithersburg; and

WHEREAS, The proposed grant of easement and right-of-way, consisting of 1,140 square feet, is needed for the installation of a water main, meter vault, and appurtenances; and

WHEREAS, A temporary construction easement consisting of 1,792 square feet is needed during the period of original construction; and

WHEREAS, The Washington Suburban Sanitary Commission will assume responsibility for the initial expense and liability of damages or injury resulting from the installation and will be responsible for all future maintenance and repair activities; and

WHEREAS, The proposed easement and right-of-way will not affect any land that could be used for school programming and recreational activities and will provide improved water meter equipment and appurtenances; now therefore be it

Resolved, That the president of the Board of Education and the superintendent of schools be authorized to execute a permanent grant of easement and right-of-way of 1,140 square feet and a temporary construction easement of 1,792 square feet to the Washington Suburban Sanitary Commission at Ridgeview Middle School.

RESOLUTION NO. 66-12

Re: **FISCAL YEAR 2012 CAPITAL
IMPROVEMENTS PROGRAM—TRANSFER
OF FUNDS**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:#

WHEREAS, Staff in the Department of Facilities Management has identified surplus funds in the following projects:

<u>Project</u>	<u>Amount</u>
Seven Locks Elementary School Modernization	\$3,500,000
Rehabilitation/Renovation of Closed Schools— (Downcounty Consortium Elementary School #29)	4,500,000

and

WHEREAS, The following projects need additional funds to award the contracts:

<u>Project</u>	<u>Amount</u>
Bradley Hills Elementary School Addition	\$3,700,000
Darnestown Elementary School Addition	4,300,000

now therefore be it

Resolved, That the Montgomery County Board of Education request the County Council to transfer to the Unliquidated Surplus account funds from the following projects:

<u>Project</u>	<u>Amount</u>
Seven Locks Elementary School Modernization	\$3,500,000
Rehabilitation/Renovation of Closed Schools— (Downcounty Consortium Elementary School #29)	4,500,000

and be it further

Resolved, That the Montgomery County Board of Education request the County Council to transfer \$8,000,000 in the Unliquidated Surplus account to the following projects to fund the contract awards:

<u>Project</u>	<u>Amount</u>
Bradley Hills Elementary School Addition	\$3,700,000
Darnestown Elementary School Addition	4,300,000

and be it further

Resolved, That the county executive be requested to recommend approval of the resolution to the County Council.

RESOLUTION NO. 67-12

Re: **UTILIZATION OF THE FISCAL YEAR 2012
PROVISION FOR FUTURE SUPPORTED
PROJECTS**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:#

WHEREAS, The above-noted grants qualify for a transfer of appropriation from the Provision for Future Supported Projects, pursuant to the provisions of County Council Resolution No. 17-150, approved May 26, 2011; and

WHEREAS, The above-noted projects do not require any present or future county funds; and

WHEREAS, Sufficient appropriation is available within the Fiscal Year 2012 Provision

for Future Supported Projects to permit the above-noted transfers within state categories; now therefore be it

Resolved, That the superintendent of schools be authorized by the Montgomery County Board of Education to receive and expend \$166,170 within the Fiscal Year 2012 Provision for Future Supported Projects, as specified below:

Project	Amount
<i>Individuals with Disabilities Education Act—Building Bridges Project</i>	\$ 100,000
Korean Language and Culture After-school Summer Program	<u>66,170</u>
Total	\$ 166,170

and be it further

Resolved, That a copy of this resolution be sent to the county executive and the County Council.

RESOLUTION NO. 68-12

Re: **HUMAN RESOURCES MONTHLY HUMAN RESOURCES AND DEVELOPMENT REPORT**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Barclay, the following resolution was adopted unanimously by members present:

WHEREAS, The educators and others who are employed by Montgomery County Public Schools are key partners in the important work and achievements of the school system; now therefore be it

Resolved, That the Board of Education approves the monthly Human Resources and Development Report with its listings identifying new employees, employee resignations, and other employee status updates; and be it further

Resolved, That this resolution be made a part of the minutes of this meeting.

RESOLUTION NO. 69-12

Re: **DEATH OF MRS. MARY A. CONTEH, BUS ATTENDANT, SPECIAL ED , DOT SHADY GROVE SOUTH DEPOT**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:#

WHEREAS, The death on December 22, 2011, of Mrs. Mary A. Conteh, special education bus attendant, Department of Transportation, Shady Grove South Depot, has

deeply saddened the staff, students, and members of the Board of Education; and

WHEREAS, During the 12 years Mrs. Conteh had worked for Montgomery County Public Schools, she earned the respect from her students and staff because she was always positive, polite and a wonderful listener; and

WHEREAS, Mrs. Conteh demonstrated confidence and dedication while she worked with special needs students; now therefore be it

Resolved, That the members of the Board of Education and the superintendent of schools express their sorrow at the death of Mrs. Conteh and extend deepest sympathy to her family; and be it further

Resolved, That this resolution be made a part of the minutes of this meeting and a copy be forwarded to Mrs. Conteh's family.

RESOLUTION NO. 70-12 Re: **DEATH OF MS. LYNNE KOLKMEYER,
CLASSROOM TEACHER ON PERSONAL
ILLNESS LEAVE, WOOD ACRES
ELEMENTARY SCHOOL**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:#

WHEREAS, The death on December 23, 2011, of Ms. Lynne R. Kolkmeier, classroom teacher on personal illness leave from Wood Acres Elementary School, has deeply saddened the staff, students, and members of the Board of Education; and

WHEREAS, During the 21.4 years with Montgomery County Public Schools, Ms. Kolkmeier was a valued member of the school community who was committed to her students and their learning; and

WHEREAS, Ms. Kolkmeier was a master teacher who strongly represented her belief that all children can accomplish anything if they accept that one must go "one step at a time"; now therefore be it

Resolved, That the members of the Board of Education and the superintendent of schools express their sorrow at the death of Ms. Kolkmeier and extend deepest sympathy to her family; and be it further

Resolved, That this resolution be made a part of the minutes of this meeting and a copy be forwarded to Ms. Kolkmeier's family.

RESOLUTION NO. 71-12 Re: **DEATH OF MR. STEPHEN MELVIN, BUS OPERATOR, DOT CLARKSBURG DEPOT**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:#

WHEREAS, The death on January 18, 2012, of Mr. Stephen L. Melvin, bus operator, Department of Transportation, Clarksburg Depot, has deeply saddened the staff, students, and members of the Board of Education; and

WHEREAS, During the 11.4 years with Montgomery County Public Schools, Mr. Melvin always had a great attitude towards work and was well liked by his peers; and

WHEREAS, Mr. Melvin demonstrated tremendous defensive driving skills and always went above and beyond when it came to the students he transported; now therefore be it

Resolved, That the members of the Board of Education and the superintendent of schools express their sorrow at the death of Mr. Melvin and extend deepest sympathy to his family; and be it further

Resolved, That this resolution be made a part of the minutes of this meeting and a copy be forwarded to Mr. Melvin's family.

RESOLUTION NO. 72-12 Re: **APPOINTMENT**

On recommendation of the superintendent and on motion of Mrs. O'Neill seconded by Dr. Docca, the following resolution was adopted unanimously by members present:

Resolved, That the following personnel appointment be approved effective February 15, 2012:

Eric P. Kuhn, currently acting supervisor, Division of School-Based Special Education Services, as supervisor, Division of School-Based Special Education Services

Re: **MONTHLY FINANCIAL REPORT**

Mr. Larry Bowers, chief operating officer, reported that this financial report reflects the actual financial condition of Montgomery County Public Schools (MCPS) as of December 31, 2011, and projections through June 30, 2012, based on program requirements and estimates made by primary and secondary account managers. At this time, expenditures have a projected surplus of \$18,000,000. Revenues have a projected surplus of \$350,000.

Due to Fiscal Year (FY) 2011 comprehensive expenditure restrictions, including a hiring

freeze, MCPS achieved a reduction of expenditures compared to budget. The FY 2012 Operating Budget included fund balance of \$17.0 million of the total savings as a source of appropriation, leaving fund balance of \$11.9 million available for appropriation in FY 2013 or future years. This unappropriated FY 2011 ending fund balance, together with the FY 2012 projected surplus of \$18.4 million, equals \$30.3 million that will be available to fund future year operating budgets. My expectation is that the available fund balance will be used for appropriation over several years to avoid any sudden increase in the need for local contribution to replace fund balance as a revenue source. The FY 2013 Recommended Operating Budget assumes that \$17.0 million of fund balance will be appropriated next year. Staff will continue to closely monitor both revenues and expenditures.

**Re: ALTERNATIVE FINANCING AND SCHOOL
MODERNIZATION APPROACH**

Dr. Starr invited the following people to the table: Mr. James Song, director, Department of Facilities Management and Dr. David Lever, executive director, Maryland Public School Construction Program, Interagency Committee on School Construction.

Staff reported that alternative financing, such as performance contracting and public-private partnerships, could allow MCPS to reduce the backlog of various capital projects. MCPS has participated in alternative financing through a public-private partnership for the installation of artificial turf at Richard Montgomery and Walter Johnson high schools. Other small scale projects funded through state energy loan programs include a geo-exchange system at Richard Montgomery High School, lighting retrofit projects at various schools throughout the school system, and an automated occupancy sensor system at Roberto W. Clemente Middle School.

However, there are potential drawbacks to this type of financing. The following demonstrates a number of issues that should be considered before moving forward with performance contracting:

- While it is difficult to project the cost comparison, it is anticipated that the alternative financing delivery will be more costly than through the use of conventional General Obligation bonds.
- It is unclear at this point whether the financing costs may be repaid with General Obligation bonds. If financing costs must be paid back with current revenue, it will have direct impact on the operating budget.
- Because MCPS is not a funding body, any alternative financing plans will require county and state approvals.

Other jurisdictions in Maryland have evaluated the use of alternative financing to fund larger capital projects. For example, in 2005, Charles County Public Schools and Harford County Public Schools explored alternative financing for school construction projects, and both concluded that the proposed capital projects could be carried out at lower cost and with less risk using conventional bond financing.

In 2003, MCPS contracted with VFA, Incorporated (VFA), a facilities assessment company, to examine the cost to maintain, renew, and update MCPS facilities compared to the cost to modernize facilities. This study was conducted to provide a basis for long-term planning to protect MCPS' investment in its school facilities. The VFA study noted that typically over a 40-year period, all of the building components in a school facility—with the exception of structural elements, such as concrete, steel, and masonry—must be replaced at least once. Based on this timeline, VFA found that for facilities 40 years of age or older, it was more cost effective to modernize than to upgrade through building system replacements.

The VFA study also found that an adequately funded systemic maintenance program becomes a cost-effective way to maintain facilities if the schools recently have been built or modernized and sufficient funding is provided for systemic maintenance projects. In contrast, facilities built when inferior construction methods were in place are more difficult to maintain in good condition even when more funds are dedicated to systemic maintenance projects. In effect, further investment in these older facilities gradually becomes a losing proposition and is not cost effective.

A feasibility study is conducted for every major capital project to explore possible options, develop cost estimates based on those options, study existing conditions of the site and facility, and conduct a life-cycle cost analysis to determine the most cost-effective option. It has been our experience that attempts to renovate older buildings result in poor efficiencies of the building systems and higher maintenance and operation costs over the life cycle of the building, compared to replacement of older buildings through modernization.

MCPS must continue to modernize its oldest facilities due to inferior construction methods at the time they were constructed or renovated, as well as new code and regulation requirements that significantly impact the building envelope. The requirements in building codes and regulations have changed significantly over the years and continue to evolve with an emphasis on their sustainability and environmental impacts. In many cases, required mechanical systems with significantly larger ducts cannot fit into the ceiling spaces of older buildings due to low floor heights. New stormwater management regulations require surface treatments that need more land than ever before. Both local and state agencies have adopted regulations that require publicly funded projects to meet or exceed a Silver rating in Leadership in Energy and Environmental Design through the United States Green Building Council.

In order to achieve efficiencies where possible, MCPS utilizes prototype designs at both the elementary and middle school levels. For example, at the middle school level, the proposed Clarksburg/Damascus MS #2, Forest Oak, Lakelands Park, Rocky Hill, Shady Grove, and Takoma Park middle schools have utilized repeat designs. At the elementary school level, the proposed Clarksburg Village Site #1, William B. Gibbs, Jr., Great Seneca Creek, and Little Bennett elementary schools are repeat designs as well. Where applicable, we will continue to construct elementary and middle schools using

repeat designs in order to realize potential cost savings.

In order to address our older facilities, a school assessment methodology, the Facilities Assessment with Criteria and Testing (FACT), was established in Fiscal Year (FY) 1993. School conditions were measured on numerous parameters and a total score was established to determine the order in which facilities would be modernized. To date, 31 elementary schools, 7 middle schools, and 8 high schools have been modernized based on their FACT scores. In 2011, 53 additional facilities were assessed—34 elementary schools, 11 middle schools, 3 special education centers, 4 elementary holding centers, and 1 alternative program center—and have been scored using an updated FACT methodology.

The code and regulation changes are difficult—if not impossible, in some cases—to accommodate when renovating buildings originally built during the 1950s to the 1970s. However, improved construction methods will enable our newer facilities to be sustained in good condition for a longer period of time than older facilities. Therefore, in order to adopt a long-term view on preserving its investment in school facilities, the Board of Education revised its policy on the modernization of schools. Board Policy FKB, *Modernization/Renovation*, was significantly revised and accordingly, on December 7, 2010, Policy FKB was renamed, *Sustaining and Modernizing Montgomery County Public Schools (MCPS) Facilities*. The shift in policy emphasis reflects a change in the long-range vision for MCPS school facilities.

The MCPS Capital Improvements Program (CIP) already includes capital projects directed at sustaining facilities in good condition. For example, the Planned Life-Cycle Asset Replacement Project funds numerous types of building system improvements. In addition, the Building Modifications and Program Improvements Project funds needed modifications tied to educational program needs. These programs are in addition to more specialized projects that support particular building system upgrades, including the Heating, Ventilation, and Air Conditioning (HVAC) Replacement and Roof Replacement projects.

Finally, while alternative financing offers the benefit of providing funds for a capital project that a school system cannot afford, alternative financing has long-term cost and risk impacts along with unanswered questions that need to be addressed. Therefore, my recommendation is to continue to evaluate alternative financing methods for school construction projects, and if the situation presents itself to utilize alternative financing in the future and would benefit the school system, it should be considered. Future opportunities for MCPS to utilize alternative financing could potentially include small HVAC projects and lighting retrofits where energy efficiency could offset the monthly finance payment; additional artificial turf installations at other fields throughout the county; and infrastructure projects that would be difficult to complete in the MCPS CIP.

Additionally, the current modernization approach is the most cost-effective way to modernize our older facilities built prior to the 1980s. It is my recommendation that we continue our current modernization approach and evaluate the most cost-effective

method to modernize our school buildings based on the feasibility study findings. Future modernizations will focus on routine work orders and systemic replacements to extend the life cycle of the building.

Re: **DISCUSSION**

The Board members were interested in the following issues:

- The experience in Maryland counties in performance contracting
- MCPS experience with mechanical projects
- Continue partnerships based on experience installing artificial turf fields
- Legislative obstacles
- Maryland model that was successful for a developer to expand capacity due to a moratorium
- Portion of facilities financed by school impact tax
- Leverage with developers for land dedication
- Collection for upgrades facilities, such as stadium lights and turf fields
- Fees are collected by MCPS for the rental of stadiums
- Fund some projects with current revenue rather than bonds
- Provide a link to the discussion of Alternative Financing and School Construction Approach to the County Council's Education Committee.
- Future design of school facilities based on code requirements
- Preliminary work is part of the feasibility study
- Technology flexibility is an essential issue
- Modular construction

** Mr. Durso left the meeting at this time.

RESOLUTION NO. 73-12

Re: **FINAL APPROVAL, POLICY ECM, JOINT
OCCUPANCY OF MCPS FACILITIES**

On motion of the Policy Committee, the following resolution was adopted unanimously by members present:

WHEREAS, Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, sets forth the criteria for joint occupancy of Montgomery County Public Schools facilities; and

WHEREAS, The draft of Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*, was tentatively adopted by the Montgomery County Board of Education on October 11, 2011, and was sent out for public comment; and

WHEREAS, The Montgomery County Board of Education has received comments and the Board of Education Policy Committee's recommendations; now therefore be it

Resolved, That the Montgomery County Board of Education adopt Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*.

Joint Occupancy of Montgomery County Public Schools (MCPS) Facilities

A. PURPOSE

To permit and set forth the criteria for joint occupancy of Montgomery County Public Schools (MCPS) facilities

B. ISSUE

Surplus space in MCPS facilities is identified when a school's projected enrollment is less than 80 percent of the school's rated capacity or when surplus space in a nonoperating school facility is not needed for MCPS purposes. The Montgomery County Board of Education (Board) permits joint occupancy of its facilities by eligible users to offset to the extent feasible and practical the cost of maintaining surplus space.

C. POSITION

1. Joint occupancy is defined as the lease of surplus space in a Board owned property to a non-MCPS user exclusively for his/her use.
2. Joint occupancy is distinguished from shared space, which is space shared with MCPS for that part of a day when it is not needed for MCPS educational programs. The Interagency Coordinating Board is responsible for locating the users of shared space.
3. The superintendent of schools shall actively seek joint occupants who support, enrich, and enhance the educational experience of MCPS students, their families, or MCPS staff.
4. In order to best meet the needs of children and to ensure prudent utilization of resources, the superintendent of schools will incorporate input from the school community into the decision-making process for selection of joint occupants for available spaces in operating schools.
5. Criteria for Identification of Available Space
 - a) The space is projected to be surplus for at least two years.
 - b) Joint occupancy arrangements that expand building capacity through the use of relocatable units or modular construction may be negotiated if site conditions allow.

- c) For joint occupancy agreements in operating schools,
 - (1) No operating school will be permitted to house a nonpublic school serving parallel school Grades K-12 in joint occupancy spaces.
 - (2) The projected student enrollment at the school is below 80 percent of the MCPS rated student capacity. This criterion may be waived with input from the principal.
 - (3) The space is located in a portion or section of the building which can be easily isolated from the educational program, preferably near a restroom and separate entrance.
- 6. When MCPS facilities are not fully utilized for student enrollment, MCPS staff functions, or other MCPS programs, space may be leased to non-MCPS users in operating schools or nonoperating schools, as follows:
 - a) Priority users for space in operating schools
 - (1) County programs that benefit MCPS students, their families, or staff
 - (2) Child care providers in compliance with Maryland licensing requirements who support, enrich, or enhance the educational experiences of current and prospective MCPS students, their families, or staff with preference given to child care programs that operate in partnership with MCPS
 - (3) Community programs that enrich or enhance the learning experiences of children or provide needed services to children and families
 - (4) Other purposes for government agencies
 - b) Priority users for space in nonoperating schools
 - (1) County programs that benefit MCPS students, their families, or staff
 - (2) Nonpublic schools and/or child care providers in compliance with Maryland licensing requirements who support, enrich, or enhance the educational experiences of children

- (3) Community programs that enrich or enhance the learning experiences of children or provide needed services to children, families, or the community
 - (4) Other purposes for government agencies
 - (5) Private enterprise
7. In those cases where two or more candidates for the same space within the same priority category are equally desired, the space will be provided to the candidate who best meets the needs of the school community as determined by the Board, with input from the school community.
8. Cost to User Group

MCPS establishes a per square foot rental rate each fiscal year to be applied to joint occupancy leases in order to recover operating costs. The income received from joint occupancy leases will be received as revenue recorded in a separate enterprise fund, the Real Estate Management Fund.

D. IMPLEMENTATION STRATEGIES

The superintendent of schools is authorized to negotiate fees for the use of surplus space.

E. REVIEW AND REPORTING

1. The superintendent of schools shall require ongoing monitoring reports to be maintained on fee schedules and the use of the surplus space.
2. This policy will be reviewed in accordance with the Board of Education policy review process.

RESOLUTION NO. 74-12

Re: **FINAL APPROVAL, POLICY KGC, CHILD CARE**

On motion of the Policy Committee, the following resolution was adopted unanimously by members present:

WHEREAS, Policy KGC, *Child Care*, affirms the importance of high quality child care and education settings for all children of Montgomery County and establishes the scope of Montgomery County Public Schools' role in partnering with the child care community in addressing child care needs; and

WHEREAS, The draft of Policy KGC, *Child Care*, was tentatively adopted by the

Montgomery County Board of Education on October 11, 2011, and was sent out for public comment; and

WHEREAS, The Montgomery County Board of Education has received comments and the Board of Education Policy Committee's recommendations; now therefore be it

Resolved, That the Montgomery County Board of Education adopt Policy KGC, *Child Care*, as updated in the attached committee recommended draft.

Child Care

A. PURPOSE

To affirm the importance of high quality child care and education settings for all children of Montgomery County.

To establish the scope of Montgomery County Public Schools' (MCPS) role in partnering with the child care community in addressing child care needs.

B. ISSUE

High quality child care is care that supports, enriches, and enhances the educational experience of MCPS students. Early childhood experiences, from birth through the first five years of life, in the home, child care setting, MCPS, and the community are critical in forming the foundation for students' school readiness and future success as lifelong learners. Further, throughout their school careers, many school-aged children and their families require safe, affordable, and high quality child care that contributes to the healthy growth and social and emotional development of school-aged children.

C. POSITION

The Montgomery County Board of Education (Board) affirms the importance of efforts to increase the availability of high quality child care that supports, enriches, and enhances the educational experiences of MCPS students. The Board supports efforts to expand child care within the limits of available resources.

1. Facilities

MCPS will continue to consider the availability of suitable facilities for community child care as it utilizes and modernizes the existing facilities and plans future school sites, as follows:

- a) Continue to include child care programs in plans for future schools

upon request to the county executive and with the approval of funds budgeted specifically for that purpose by the county government.

- b) Identify potential sites, both at operating and future school sites, for the placement of structures for use by high quality child care programs where feasible.
- c) Identify and contract out the use of space within school facilities by high quality child care programs that best support the MCPS educational program under the following terms, as appropriate:
 - (1) Shared use, provided such use does not adversely impact the MCPS instructional program, or
 - (2) Joint occupancy under the provisions of the Board's Policy ECM, *Joint Occupancy of Montgomery County Public Schools Facilities*.

2. Collaboration

- a) MCPS advocates for the child care needs of Montgomery County students and families through engagement with federal, state, and local government agencies, including the Montgomery County Commission on Child Care. Consistent with Policy ABA, *Community Involvement*, MCPS collaborates with a broad range of community members and organizations that reflect the diverse citizenry and interests of Montgomery County.
- b) MCPS shares the school system's expertise to assist child care providers to increase the availability of high quality child care that meets the diverse needs of children. Sharing expertise with providers may include, but is not limited to, linking providers and families with needed community services and providing advice and referrals regarding licensing, accreditation, credentials, or professional development resources.
- c) MCPS contributes, as appropriate, published student population projections and other relevant published data or research findings to child care providers and other community members engaged in planning processes for child care services.
- d) MCPS stays informed on and advocates for, as appropriate, federal, state, and local legislative or executive initiatives impacting child care and school readiness.
- e) MCPS may enter into partnerships with community agencies

providing child care that directly benefits MCPS students, parents, and the MCPS educational program.

- f) MCPS may provide direct services, including, but not limited to, transportation, food services, or professional development as specified and funded in partnership or collaborative agreements with child care programs.

D. REVIEW AND REPORTING

1. The Board will receive updates on the planned efforts and/or ongoing issues concerning child care in Montgomery County as appropriate.
2. This policy will be reviewed in accordance with the Board policy review process.

RESOLUTION NO. 75-12

Re: **TENTATIVE APPROVAL, POLICY BBB,
ETHICS**

On motion of the Policy Committee, the following resolution was adopted unanimously by members present.

WHEREAS, Policy BBB, *Ethics*, seeks to promote the highest level of ethical conduct on the part of all persons associated with MCPS, to ensure the highest public confidence in the impartiality and independent judgment of Board members and school employees, and to provide guidance for MCPS personnel concerning ethics-related matters; and

WHEREAS, The Montgomery County Board of Education Policy Committee has considered and recommended revisions to update Policy BBB, *Ethics*; now therefore be it

Resolved, That the Montgomery County Board of Education take tentative action on Policy BBB, *Ethics*; and be it further

Resolved, That Policy BBB, *Ethics*, be sent out for public comment.

Ethics

A. PURPOSE

To promote the highest level of ethical conduct on the part of all persons associated with Montgomery County Public Schools (MCPS), to ensure the highest public confidence in the impartiality and independent judgment of Board

of Education (Board) members and school employees, and to provide guidance for MCPS personnel concerning ethics-related matters

B. ISSUE

Chapter 277 of the 2010 Laws of Maryland directs and authorizes local boards of education to adopt appropriate provisions concerning conflicts of interest, financial disclosure, and lobbying to help ensure the highest public confidence in the impartiality and independent judgment of Board members and school employees.

C. POSITION

1. Definitions

Words in this policy have their normal accepted meanings except as set forth below:

- a) *Business entity* means any corporation, general or limited partnership, sole proprietorship, joint venture, incorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit. Business entity does not include a governmental entity.
- b) *Compensation* means any money or thing of value, regardless of form, received or to be received by any individual covered by this policy from an employer for service rendered. For purposes of section C. 4. of this policy, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.
- c) *Doing business with* means having or negotiating a contract that involves the commitment, in a single or combination of transactions, of \$5,000 or more of school system funds during a calendar year, or being subject to the authority of the school system, or being registered as a lobbyist in accordance with Section C.4. of this policy.
- d) *Employee* means any person employed by the Board , including the superintendent of schools.
- e) *Financial interest* means:
 - (1) Ownership of any interest as the result of which the owner has received within the past 3 years, is presently receiving,

- or is entitled to receive in the future in excess of \$1,000 annually; or
- (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by an official or the spouse of an official.
- f) *Gift* means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. Gift does not include political campaign contributions regulated under Maryland or local law. (See also exemptions in Section 2.b)(4).)
 - g) *Immediate family* means a spouse and dependent children.
 - h) *Interest* means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held in whole or in part, jointly or severally, directly or indirectly, at any time during the calendar year. Interest does not include:
 - (1) An interest held in the capacity of a personal agent, personal representative, agent, custodian, fiduciary, or trustee, unless the holder has an equitable interest in the subject matter;
 - (2) An interest in a time or demand deposit in a financial institution;
 - (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed amount of money in a lump sum or for life or some other specified period;
 - (4) A common trust fund or a trust which forms part of a pension or profit-sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code;
 - (5) A college savings plan under the Internal Revenue Code.
 - i) *Lobbying* means:
 - (1) Communicating in the presence of a school official with the intent to influence any official action of that official, where \$100 or more is spent during a calendar year for food,

entertainment, other gifts, or a series of gifts in furtherance of this activity; or

(2) Engaging in activities having the express purpose of soliciting others to communicate with a school official with the intent to influence that official in the outcome of any official action, where \$300 or more is spent in furtherance of this activity during the calendar year.

- j) *Lobbyist* means a person required to register and report expenses related to lobbying under section C. 4. of this policy.
- k) *Official or school official* means each member of the Board and its employees, including the superintendent of schools.
- l) *Panel* means the Board Ethics Panel.
- m) *Person* includes an individual or a business entity.
- n) *Qualified relative* means a spouse, parent, child, or sibling.
- o) *Subject to the authority of* refers to business entities regulated by the Board or subject to significant control or impact by policies of the school system relating to the operations of the entity.

2. Conflicts of interest

a) Participation

- (1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision in the matter, an official may not participate in the disposition or decision of:
 - (a) Any matter in which, to the knowledge of the official, the official or a qualified relative of the official has an interest; or
 - (b) Any matter in which any of the following is a party:
 - i) A business entity in which the official has a direct financial interest of which the official may reasonably be expected to know;

- ii) A business entity for which the official or a qualified relative of the official is an officer, director, trustee, partner, or employee;
 - iii) A business entity for which the official or, to the knowledge of the official, a qualified relative of the official is negotiating or has any arrangement concerning prospective employment;
 - iv) A business entity that is a party to an existing contract with the school official or which, to the knowledge of the official, a qualified relative of the official, if the contract reasonably could be expected to result in a conflict between the private interests of the official and the school system or Board duties of the official;
 - v) An entity, doing business with the Board or school system, in which a direct financial interest is owned by another entity in which the official has a direct financial interest, if the official may reasonably be expected to know of both direct financial interests; or
 - vi) A business entity that;
 - A) The official knows is a creditor or obligee of the official or a qualified relative of the official with respect to anything of economic value; and
 - B) As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or qualified relative of the official.
- (2) An official who is disqualified from participating under paragraph (1) of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:
- (a) The disqualification leaves the Board with less than a quorum capable of acting;
 - (b) The disqualified official is required by law to act;

- (c) The disqualified official is the only person authorized to act; or
 - (3) The prohibitions of paragraph (1) of this subsection do not apply if participation is allowed by opinion of the Panel.
- b) Employment and financial interests
- (1) Except as permitted by school system regulation when the interest is disclosed or when the employment does not create a conflict of interest or appearance of a conflict, an official may not:
 - (a) Be employed by or have a financial interest in an entity that is:
 - i) Subject to the authority of the school system or Board; or
 - ii) Negotiating or has a contract with the school system or Board; or
 - (b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official, affect their usefulness as employees in the school system, make time and/or energy demands that could interfere with their effectiveness in performing their regularly assigned duties, adversely affect their employment status, or would in any way conflict with assigned duties.
 - (2) This prohibition does not apply to:
 - (a) An official whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted by school system regulations; or
 - (b) Subject to other provisions of regulation and law, a member of the Board in regard to a financial interest or employment held at the time of the oath of office, if the financial interest or employment was disclosed on the financial disclosure statement filed with the certificate of candidacy to be a candidate to be a member of the Board; or

- (c) Employment or financial interests allowed by opinion of the Panel if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

- c) Post-employment

A former official may not assist or represent any other party other than the Board or school system for compensation in a case, contract, or other specific matter involving the Board or the school system if the matter is one in which the former official significantly participated as an official.

- d) Contingent compensation

An official may not assist or represent a party for contingent compensation in any matter before or involving the Board or the school system.

- e) Prestige of office

An official may not intentionally use the prestige of their office or public position for the private gain of that official or the private gain of another. The performance of usual and customary constituent services by a member of the Board without additional compensation does not constitute the use of prestige of office or public position.

- f) Gifts

- (1) An official may not solicit any gift.

- (2) An official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual lobbyist.

- (3) An official may not knowingly accept a gift, directly or indirectly, from a person that the official knows or has reason to know:

- (a) Is doing business with or seeking to do business with the school system or Board;

- (b) Is subject to the authority of the school system;

- (c) Is a lobbyist with respect to a matter within the jurisdiction of the official; or
 - (d) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the school system duties of the official.
- (4) Notwithstanding paragraph (f)(3) of this subsection, an official may accept:
- (a) Meals and beverages consumed in the presence of the donor or sponsoring entity;
 - (b) Ceremonial gifts or awards that have insignificant monetary value;
 - (c) An unsolicited gift that does not exceed \$25 in value, or an unsolicited series of gifts not exceeding \$100 in value in a calendar year, or trivial items of informational value;
 - (d) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official at a meeting which is given in return for the participation of the official in a panel or speaking engagement at the meeting;
 - (e) Gifts of tickets or free admission extended to members of the Board to attend a charitable, cultural, or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to the Board;
 - (f) A specific gift or class of gifts which the Panel exempts from the operation of this subsection upon a written finding that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the school system or Board and that the gift is purely personal and private in nature;
 - (g) Gifts from a person related by blood or marriage, or any other individual who is a member of the household of the official; or

- (h) An honorarium for speaking to or participating in a meeting, provided that the officering of the honorarium is in no way related to the school system or Board position of the official.
- (5) Paragraph (f)(4)(a) above does not apply to gifts:
 - (a) That would tend to impair the impartiality and independence of judgment of the official receiving the gift;
 - (b) Of significant value that would give the appearance of impairing the impartiality and independent judgment of the official; or
 - (c) Of significant value that the recipient official believes or has reason to believe is designed to impair the impartiality and independent judgment of the official.
- g) Disclosure of confidential information

Other than in the discharge of official duties, an official may not disclose or use confidential information that the official acquired by reason of the official's public position and that is not available to the public for their own economic benefit or that of another person.

- h) Procurement
 - (1) An individual or person that employs an individual who assists the school system or Board in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.
 - (2) The Panel may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procurement office.

3. Financial disclosure

- a) The following persons shall file public financial disclosure statements with the Panel on a form approved by the Board, under oath or affirmation, as provided in this section:

- (1) Board members
 - (2) Candidates for election to the Board
 - (3) Superintendent of schools, deputy superintendent **of schools**, associate superintendents, and the staff director in the Board
- b) Any school official or employee who has responsibility for preparing, approving, or auditing, or who has the authority to commit the school system to rent, purchase, or lease, any of the following items with an aggregate value of \$100,000 in any fiscal year shall file a confidential financial disclosure statement as provided in this section:
- (1) Personal service contracts
 - (2) Specifications for materials, supplies, or equipment; or
 - (3) Requests for proposals or bids
- c) Deadlines for filing statements
- (1) The incumbent officials identified in sections 3.a)(1) and (3) and in section 3. b) shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.
 - (2) An official who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.
 - (3) An individual who, other than by reason of death, leaves an office for which a statement is required shall file a statement within 60 days after leaving the office. The statement shall cover:
 - (a) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

- (b) The portion of the current calendar year during which the individual held the office.
- d) Candidates to be members of the Board
 - (1) Except for an official who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be a member of the Board shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.
 - (2) A candidate to be a member of the Board shall file a statement required under this section:
 - (a) In the year the certificate of candidacy is filed, no later than the filing of the certificate of candidacy;
 - (b) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and
 - (c) In all other years for which a statement is required, on or before April 30.
 - (3) A candidate to be a member of the Board:
 - (a) May file the statement required under §3(d)(2)(a) of this policy with the Board of Election Supervisors with the certificate of candidacy or with the Panel prior to filing the certificate of candidacy; and
 - (b) Shall file the statements required under §3(d)(2)(b) and (c) of this policy with the Panel.
 - (4) If a candidate fails to file a statement required by this section after written notice is provided by the Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.
 - (5) The Board of Election Supervisors may not accept any certificate of candidacy unless a statement required under this section has been filed in proper form.

- (6) Within 30 days of the receipt of a statement required under this section, the Board of Election Supervisors shall forward the statement to the Panel, or the office designated by the Panel or Board.

e) Public record

- (1) The Panel shall maintain all financial disclosure statements filed under this section.
- (2) Except for the financial disclosure statements filed by the persons identified in section C.3 b) which shall be confidential, the Panel shall make financial disclosure statements available during normal office hours, for examination and copying by the public subject to reasonable fees and administrative procedures established by the Board.
- (3) If an individual examines or copies a financial disclosure statement, the Panel shall record:
 - (a) The name and home address of the individual reviewing or copying the statement; and
 - (b) The name of the person whose financial disclosure statement was examined or copied.
- (4) Upon request by the individual whose financial disclosure statement was examined or copied, the Panel shall provide the individual with a copy of the name and home address of the person who reviewed the individual's financial disclosure statement.

f) Retention requirements

The Panel shall retain financial disclosure statements for four years from the date of receipt.

g) All statements filed pursuant to this section shall disclose the following interests:

- (1) Interests in real property
 - (a) A statement filed under this section shall include a schedule of all interests in real property wherever located.

- (b) For each interest in real property, the schedule shall include:
 - i) The nature of the property and the location by street address, mailing address, or legal description of the property;
 - ii) The nature and extent of the interest held, including any conditions and encumbrances on the interest;
 - iii) The date when, the manner in which, and the identity of the person from whom the interest was acquired;
 - iv) The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;
 - v) If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and
 - vi) The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships

- (a) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the school system or Board.
- (b) For each interest reported under this paragraph, the schedule shall include:

- i) The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;
 - ii) The nature and amount of the interest held, including any conditions and encumbrances on the interest;
 - iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and if known, the identity of the person to whom the interest was transferred; and
 - iv) With respect to any interest acquired during the reporting period:
 - A) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - B) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time required.
 - v) An individual may satisfy the requirement to report the amount of the interest held under item (b)(ii) of this paragraph by reporting, instead of a dollar amount:
 - A) For an equity interest in a corporation, the number of shares held and, unless the corporations, stock is publicly traded, the percentage of equity interest held; or
 - B) For an equity interest in a partnership, the percentage of equity interest held.
- (3) Interests in business entities doing business with the school system or Board

- (a) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the school system or Board, other than interests reported under paragraph (2) of this subsection.
 - (b) For each interest reported under this paragraph, the schedule shall include:
 - i) The name and address of the principal office of the business entity;
 - ii) The nature and amount of the interest held, including any conditions to and encumbrances on the interest;
 - iii) With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest, and, if known, the identity of the person to whom the interest was transferred; and
 - iv) With respect to any interest acquired during the reporting period:
 - A) The date when, the manner in which, and the identity of the person from whom the interest was acquired; and
 - B) The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.
- (4) Gifts
- (a) A statement filed under this section shall include a schedule of each gift in excess of \$25 in value, or a series of gifts totaling \$100 or more, received during the calendar year from or on behalf of, directly or indirectly, any one person who does business with the school system or Board.

- b) For each gift reported the schedule shall include:
 - i) A description of the nature and value of the gift; and
 - ii) The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

- (5) Employment with or interests in entities doing business with the school system or Board
 - a) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the school system or Board.

 - b) For each position reported under this paragraph, the schedule shall include:
 - i) The name and address of the principal office of the business entity;
 - ii) The title and nature of the office, directorship, or salaried employment held and the date it commenced; and
 - iii) The name of each school system or Board unit with which the entity is involved as indicated by identifying one or more of the three categories of "doing business," as specified in the Definitions section of this policy.

- (6) Indebtedness to entities doing business with the school system or Board

A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the school system or Board owed at any time during the reporting period by:

 - (a) The individual; or

- (b) A member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.
 - i) For each liability reported under this paragraph, the schedule shall include:
 - A) The identity of the person to whom the liability was owed and the date the liability was incurred;
 - B) The amount of the liability owed as of the end of the reporting period;
 - C) The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and
 - D) The security given, if any, for the liability.

(7) Employment with the school system or Board

A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the school system or Board in any capacity at any time during the reporting period.

(8) Sources of earned income

- (a) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each business entity of which the individual or a member of the individual's immediate family was a sole or partial owner and from which the individual or member of the individual's immediate family received earned income at any time during the reporting period.
- (b) A minor child's employment or business ownership need not be disclosed if the Board or school system does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.

- (9) A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

For the purposes of 3 f)(1),(2), and (3) of this policy, the following interests are considered to be the interests of the individual making the statement:

- (a) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.
 - (b) An interest held by a business entity in which the individual held a 30 percent or greater interest at any time during the reporting period.
 - (c) An interest held by a trust or an estate in which, at any time during the reporting periods;
 - i) The individual held a reversionary interest or was a beneficiary; or
 - ii) If a revocable trust, the individual was a settlor.
- (10) The Panel shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies. Evidence of noncompliance shall be pursued by the Panel.
- (11) In addition to the financial disclosure provisions set forth in this section, the persons specified in section 3.a) shall file a statement with the Panel disclosing any interests that raise conflicts of interest or potential conflicts of interest in connection with a specific proposed action by such person, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

4. Lobbying Disclosure

- a) Any person representing him/herself, a business entity, or an organization who personally appears before the Board, a school official, or employee with the intent to influence that body or individual in the performance of official duties, and who in connection with such intent expends or reasonably expects to

expend in excess of \$100 in any calendar year on food, entertainment, or other gift or series of gifts for any member of the Board or a school official shall register with the Ethics Panel within 5 days after first making the appearance.

- b) Any person representing him/herself, a business entity, or an organization, who communicates with one or more members of the Board or school employees, or who solicits others to communicate with a school official or employee with the intent to influence that official or employee in the outcome of any official actions, and who incurs expenses of more than \$300 for this purpose in any calendar year, shall register with the Ethics Panel within 5 days after expending these funds.
- c) The registration statement shall identify the name and address of the lobbyist and any person on whose behalf he/she acts, and the subject matter which the registrant appeared before the Board or school official. The registration statement shall cover lobbying activities undertaken during the calendar year.
- d) Registrants under this section shall file a report within 30 days after the end of any calendar year disclosing the value, date, and nature of any food, entertainment, or other gift provided to a school official.

Where the value of a gift exceeds \$25 in value or series of gifts exceeds \$100 in value in the calendar year, the registrant shall disclose the name of the school official to whom it was made.

- e) Registrations and reports filed pursuant to this section shall be maintained by the Ethics Panel as public records, available for inspection and copying subject to the conditions specified in Section 3.d) of this policy.
- f) The provisions of this section do not apply to the following acts:
 - (1) Professional services in advising and rendering opinions to clients as to the construction and effect of proposed or pending Board actions when these services do not otherwise constitute lobbying;
 - (2) Appearances before the Board upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of Board actions;

- (3) Appearances before an organizational unit of the school system upon the specific invitation or request of the unit if the person or entity engages in no further or other activities in connection with the passage or defeat of school system or Board action;
- (4) Appearance as part of the official duties of a duly elected or appointed official or employee of the State or a political subdivision of the State, or of the United States, and not on behalf of any other entity;
- (5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;
- (6) Appearances by an individual before the Board at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the Board that the person or entity is testifying at the request of the lobbyist;
- (7) Appearances by an individual before the Board or an organizational unit of the school system at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies the unit that the person or entity is testifying at the request of the lobbyist;
- (8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and
- (9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

5. Exemptions and Modifications

The Ethics Panel may grant exemptions and modifications to the provisions of sections C.2 and C.3 of this policy to employees (and not members of the Board) when the Panel determines that application of

those provisions is not required to preserve the purposes of this chapter and would:

- a) Constitute an unreasonable invasion of privacy;
- b) Significantly reduce the availability of qualified persons for public service; and
- c) Not be required to preserve the purposes of this policy.

6. Ethics Panel

- a) There is a Montgomery County Board of Education Ethics Panel which consists of five members appointed by the Board .
- b) Terms of members shall be for three years and established so that one member's term expires each year.
- c) Panel members shall not be incumbent members of the Board, school officials or employees, persons employed by a business entity subject to the authority of the Board, or spouses of such persons.
- d) The Panel shall elect a chairman from among its members.
 - (1) The term of the chairman is one year.
 - (2) The chairman may be reelected.
- e) The Panel shall be assisted in carrying out the responsibilities specified in this policy by the ethics officer and the Board which, in consultation with the superintendent of schools, shall see that needed legal, technical, and clerical assistance is provided to the Panel.
- f) The Board encourages all persons affected by this policy to seek the advice of the Ethics Panel as to any potential conflict of interest or other matter within the scope of this policy.
- (g) The Panel is the advisory body responsible for interpreting this policy and advising persons subject to this policy regarding its application.
- (h) The Panel shall implement a public information and education program regarding the purpose and implementation of this policy.

- (i) The Panel shall be the custodian of all forms submitted by any person under this policy and shall provide public access to such forms in accordance with this policy.
- (j) Request for advisory opinion
 - (1) Any official, employee, or other person subject to this chapter may request an advisory opinion from the Panel concerning the application of this policy.
 - (2) The Panel shall respond promptly to a request for an advisory opinion and shall provide interpretations of this policy within 60 days of the request based on the facts provided or reasonably available to the Panel.
 - (3) In accordance with applicable state laws regarding public records, the Panel shall publish or otherwise make available to the public copies of the advisory opinions with the identities of the subjects deleted.
- (k) Filing a complaint
 - (1) Any person may file a complaint with the Panel alleging a violation of any of the provisions of this policy.
 - (2) A complaint shall be in writing and under oath.
 - (3) The Panel may refer a complaint to legal counsel for the Board or other legal counsel approved by the Board for investigation and review.
 - (4) If the Panel determines that there are insufficient facts upon which to base a determination of a violation, the Panel shall dismiss the complaint.
 - (5) If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing which will be conducted by the Panel.
 - i) A respondent may propose a settlement or cure to the Panel before a hearing.
 - ii) If the Panel determines that the proposed settlement or cure is consistent with the purposes of this policy,

the Panel shall recommend that the Board accept the proposed settlement or cure.

- iii) If the Board concurs with the recommendation of the Panel, the Board shall accept the proposed settlement or cure.
- (l) The Panel's findings of a violation resulting from the hearing shall include findings of fact and conclusions of law.
- (m) The Panel shall report its findings and recommendations for action to the Board.
- (n) If the Board concurs with the findings of a violation and recommendations of the Panel, the Board may take enforcement action as provided in this policy.
- (o) The Board may dismiss a complaint:
 - i) On the recommendation of the Panel; or
 - ii) If the Board disagrees with a finding of a violation by the Panel.
- (p) After a complaint is filed and until a final determination by the Board, all actions regarding a complaint are confidential.
- (q) If a Board member is the subject of a complaint filed with the Panel, the Board member may not vote or participate in the Board's deliberations on the complaint.

7. Sanctions

- a) A finding that a Board member, school official, or employee has violated these provisions shall constitute grounds for removal from office, discipline, or other personnel action consistent with provisions of the *Annotated Code of Maryland, Education*, or the policies of the Board.
- b) Persons or organizations found in violation of the lobbying provisions of this policy shall be publicly identified and subject to other penalties as provided by law.

D. DESIRED OUTCOME

MCPS will maintain high standards of ethics on a regular and ongoing basis. All those subject to this policy, including administrators, teachers, and support staff will thoroughly understand and fully adhere to the highest ethical standards. Ethical principles such as honesty, integrity, responsibility, and citizenship will be in the forefront of all activities and promoted to the greatest possible extent with MCPS.

E. IMPLEMENTATION STRATEGIES

The position of ethics officer for MCPS is hereby established. The ethics officer shall report directly to the Board. The ethics officer will support and facilitate the work of the Ethics Panel and provide leadership for implementing all MCPS activities concerning ethics and conflicts of interest.

F. REVIEW AND REPORTING

This policy will be reviewed in accordance with the Board policy review process.

RESOLUTION NO. 76-12 Re: **CLOSED SESSION RESOLUTION**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mrs. O'Neill, the following resolution was adopted unanimously by members present:

WHEREAS, The Board of Education of Montgomery County is authorized by the *Education Article* and *State Government Article* of the *Annotated Code of Maryland* to conduct certain meetings or portions of its meetings in closed sessions; now therefore be it

Resolved, That the Board of Education of Montgomery County conduct a closed session on Monday, February 27, 2012, in Room 120 of the Carver Educational Services Center, 850 Hungerford Drive, Rockville, Maryland, to meet from 4:00 to approximately 4:30 p.m.; and be it further

Resolved, That the Board of Education anticipates that the closed session will include a discussion of personnel matters, as permitted under Section 10-508(a)(1) of the *State Government Article* and Section 4-107(d) of the *Education Article*; the review and adjudication of appeals in its quasi-judicial capacity; consultation with counsel to obtain legal advice on those appeals, as permitted under Section 10-508(a)(7) of the *State Government Article*; a discussion of matters constituting an administrative function outside the purview of the *Open Meetings Act* (Section 10-502(b) of the *State Government Article*); and the Board will publish a more detailed Resolution for Closed Session when particular topics for discussion are identified; and be it further

Resolved, That this meeting shall continue in closed session until the completion of business.

RESOLUTION NO. 77-12

Re: **REPORT OF CLOSED SESSION**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mrs. O'Neill, the following report was adopted unanimously by members present:

On January 10, 2012, the Board of Education voted unanimously by members present to conduct a closed session as permitted under the *Education Article* Section 4-107(d) and *State Government Article* Section 10-508(a), *et seq.*, of the *Annotated Code of Maryland*.

The Board of Education of Montgomery County met in closed session on January 10, 2012, from 9:05 to 9:46 a.m. and 12:29 to 1:32 p.m. in Room 120 of the Carver Educational Services Center, Rockville, Maryland, and:

1. Received legal advice on appeals and adjudicated the following appeals involving a student transfer, teacher dismissal and student expulsions: T-2011-56, 2011-44, 2011-45, and 2011-46, as permitted under Section 10-508(a)(7) of the *State Government Article* and in its quasi-judicial capacity outside the purview of the *Open Meetings Act*, with a subsequent vote in open session.
2. Received a briefing by the superintendent on the Monthly Human Resources and Development Report and Appointments, which is an administrative function outside the purview of the *Open Meetings Act* as permitted under Section 10-508(a)(1) of the *State Government Article*, and which included a briefing regarding certain individual employees as permitted under Section 10-508(a)(1) of the *State Government Article*, with a subsequent vote in open session.
3. Received legal advice and discussed legal implications regarding a teacher dismissal decision, as permitted under Section 10-508(a)(7) of the *State Government Article*.
4. Received a briefing by the superintendent on the Reorientation to Serve Our Schools (a reorganization of Central Office initiative, which is an administrative function outside the purview of the *Open Meetings Act*).
5. Received the Equal Employment Opportunity Quarterly Report, which is an administrative function and outside the purview of the *Open Meetings Act*.
6. Received an update by staff and discussed ongoing collective bargaining negotiations, as permitted under Section 10-508(a)(9) of the *State Government Article*.

In attendance at the 9:05 a.m. closed session were Christopher Barclay, Laura Berthiaume, Shirley Brandman, Judy Docca, Michael Durso, Phil Kauffman, Patricia O'Neill, Alan Xie, Ikhide Roland Ikheloa, Suzann King, Glenda Rose, Laura Steinberg, and Patrick Clancy. At 9:26 a.m., the following staff and counsel joined the meeting Larry Bowers, Judy Bresler, Brian Edwards, Frieda Lacey, Joshua Starr, and Dana Tofig. At 9:43 a.m., Mr. Clancy and Ms. Bresler left the meeting. At 12:29 p.m., Stan Damas joined the Board and staff in closed session. At 1:17 p.m., Stan Damas left the meeting.

On January 18, 2012, the Board of Education voted unanimously by members present to conduct a closed session as permitted under the *Education Article* Section 4-107(d) and *State Government Article* Section 10-508(a), *et seq.*, of the *Annotated Code of Maryland*.

The Board of Education of Montgomery County met in closed session on January 18, 2012, from 5:36 to 7:00 p.m. in Room 120 of the Carver Educational Services Center, Rockville, Maryland, and received an update by staff and discussed ongoing collective bargaining negotiations, as permitted under Section 10-508(a)(9) of the *State Government Article*.

In attendance at the 5:36 p.m. closed session were Christopher Barclay, Laura Berthiaume, Shirley Brandman, Judy Docca, Michael Durso, Phil Kauffman, Patricia O'Neill, Ikhide Roland Ikheloa, Suzann King, Glenda Rose, Laura Steinberg, Larry Bowers, Frieda Lacey, Stan Damas, and Susanne DeGraba.

On January 25, 2012, the Board of Education voted unanimously by members present to conduct a closed session as permitted under the *Education Article* Section 4-107(d) and *State Government Article* Section 10-508(a), *et seq.*, of the *Annotated Code of Maryland*.

The Board of Education of Montgomery County met in closed session on January 25, 2012, from 5:12 to 6:24 p.m. in Room 120 of the Carver Educational Services Center, Rockville, Maryland, and received an update by staff and discussed ongoing collective bargaining negotiations, as permitted under Section 10-508(a)(9) of the *State Government Article*.

In attendance at the 5:12 p.m. closed session were Christopher Barclay, Laura Berthiaume, Shirley Brandman, Judy Docca, Michael Durso, Phil Kauffman, Patricia O'Neill, Ikhide Roland Ikheloa, Suzann King, Glenda Rose, Larry Bowers, Stan Damas, Susanne DeGraba, Brian Edwards, Frieda Lacey, and Joshua Starr.

On January 30, 2012, the Board of Education voted unanimously by members present to conduct a closed session as permitted under the *Education Article* Section 4-107(d) and *State Government Article* Section 10-508(a), *et seq.*, of the *Annotated Code of Maryland*.

The Board of Education of Montgomery County met in closed session on January 30, 2012, from 9:07 to 11:10 a.m. in the Rockville Public Library, 21 Maryland Avenue, Rockville, Maryland 20850, in the Director's Board Room (3rd floor) and received a briefing by the superintendent on the Reorientation to Serve Our Schools (a reorganization of Central Office initiative), which is an administrative function outside the purview of the *Open Meetings Act*.

In attendance at the closed session were Barbara Anderson, Christopher Barclay, Laura Berthiaume, Shirley Brandman, Judy Docca, Michael Durso, Andrew Gelber, Phil

Kauffman, Patricia O'Neill, Joshua Starr, and Alan Xie.

On February 6, 2012, the Board of Education voted unanimously by members present to conduct a closed session as permitted under the *Education Article* Section 4-107(d) and *State Government Article* Section 10-508(a), *et seq.*, of the *Annotated Code of Maryland*.

The Board of Education of Montgomery County met in closed session on February 6, 2012, from 7:50 to 8:28 p.m. in the Trustee Board Room (115), Central Administration Building, Montgomery College, 900 Hungerford Drive, Rockville, Maryland and received an update by staff and discussed ongoing collective bargaining negotiations, as permitted under Section 10-508(a)(9) of the *State Government Article*.

In attendance at the closed session were Christopher Barclay, Shirley Brandman, Judy Docca, Michael Durso, Phil Kauffman, Patricia O'Neill, Ikhide Roland Ikheloa, Larry Bowers, Stan Damas, Susanne DeGraba, Brian Edwards, Frieda Lacey, and Joshua Starr.

RESOLUTION NO. 78-12 Re: **APPEALS**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mrs. O'Neill, the following resolution was adopted unanimously by members present:

WHEREAS, The Board of Education has met in closed session and deliberated on appeals brought before its members acting in its quasi-judicial capacity under Section 10-508(a) of the State Government Article of the Annotated Code of Maryland; now therefore be it

Resolved, That the Board of Education hereby decides the following appeals reflective of the Board members' votes in closed session, the dispositions of which will be recorded in the minutes of today's meeting:

<u>Appeal Number</u>	<u>Type</u>	<u>Disposition</u>
2011-48	Student Expulsion	Oral Argument
2011-49	Student Expulsion	Hearing Officer
2012-1	Student Placement	Affirmed

RESOLUTION NO. 79-12 Re: **MINUTES**

On recommendation of the superintendent and on motion of Mr. Barclay seconded by Mrs. O'Neill, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education approved the minutes from its January 10, January 11, and January 18, 2012, meetings.

Re: **BOARD COMMITTEE UPDATES**

There were no updates.

Re: **ITEMS OF INFORMATION**

The following information was available:

1. Legal Fees Report
2. Construction Progress Report
3. Minority-, Female-, Or Disabled-Owned Business Procurement Year-To-Date Report For Fiscal Year 2012 Through December 31, 2011

RESOLUTION NO. 80-12 Re: **ADJOURNMENT**

On recommendation of the Superintendent and on motion of Mr. Barclay seconded by Mr. Kauffman, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adjourn its meeting of February 14, 2012, at 4:15 p.m.

 PRESIDENT

 SECRETARY

JPS:gr

Resolution	Barclay	Berthiaume	Brandman	Docca	Durso	Kauffman	O'Neill	Xie
FY 2013 Operating Budget	A	AB	A	A	A	A	A	AB
Final Action on Policies ECM and KGC	A	AB	A	A	AB	A	A	AB
Tentative Action on Policy BBB	A	AB	A	A	AB	A	A	AB

A = affirmative; N = negative; O = absent; AB = abstain